

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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9 NOVEMBER 19, 2002

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12 APPEARANCES:

13 MASON BRENT, SUBSTITUTE CHAIRMAN AND GAS & OIL INDUSTRY  
14 REPRESENTATIVE

15 KEN MITCHELL, CITIZEN APPOINTEE

16 BILL HARRIS, PUBLIC MEMBER

DONALD RATLIFF, COAL INDUSTRY REPRESENTATIVE

17  
18 SHARON PIGEON AND SANDRA RIGGS, COUNSEL FOR THE BOARD WITH  
19 THE ATTORNEY GENERAL'S OFFICE  
BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND ACTING  
PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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11 Approve the minutes of last meeting

12 \*\*\*\*AGENDA ATTACHED

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1           MASON BRENT: Good morning, my name is Mason Brent.  
2 I'm from Richmond. I'll be standing in today for Benny  
3 Wampler, who is our chairman, and couldn't be here this  
4 month. Before we get started, I'll ask the other Board  
5 members and staff to introduce themselves, starting with Mr.  
6 Mitchell.

7           KEN MITCHELL: My name is Ken Mitchell. I am a  
8 citizen appointee from Stafford County, Virginia, which is  
9 also, by the way, the home of George Washington.

10          SHARON PIGEON: I'm Sharon Pigeon. I'm with the  
11 Office of the Attorney General.

12          BILL HARRIS: I'm Bill Harris, a public member from  
13 Wise County.

14          DONALD RATLIFF: Donald Ratliff, I'm the coal  
15 industry representative.

16          BOB WILSON: I'm Bob Wilson. I'm the director of  
17 the Division of the Gas & Oil and principal executive to the  
18 staff of the Board.

19          MASON BRENT: Okay, thank you. The first item on  
20 our agenda today, the Board will consider a petition from  
21 Columbia Natural Resources for pooling of a conventional gas  
22 unit CNR 24655 in Buchanan County, Virginia. This is docket  
23 number VGOB-02-06/18-1038. It was continued from last month.

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1           BOB WILSON: Mr. Chairman.

2           MASON BRENT: Yes, sir, Mr. Wilson.

3           BOB WILSON: I have a fax transmission from Jim  
4 Kiser, who is the attorney for Columbia Natural Resources,  
5 yesterday requesting that items one and two, which are docket  
6 number 1038 and 1039 be further continued until December.  
7 Apparently, the companies are still in negotiation on this.  
8 All parties in agreement and ask for a further continuance.

9           MASON BRENT: Okay. Any objections from the Board  
10 to continuing these two items?

11           (No audible response.)

12           MASON BRENT: Okay, we'll continue that; and VGOB-  
13 02-06/18-1039 will be continued as well until next month.  
14 The next item on our agenda the Board will consider is a  
15 petition from Pocahontas Gas Partnership for amendment of a  
16 pooling order and authorization for disbursement of escrowed  
17 funds and direct payment of royalties for Tracts 2 and 3,  
18 coalbed methane unit P-40 in Buchanan County, Virginia. This  
19 is docket number VGOB-93-02/16-0330-02. This was continued  
20 from last month. We'd ask all the parties that would like to  
21 address the Board in this matter to come forward at this  
22 time.

23           MARK SWARTZ: Mark Swartz on behalf of Pocahontas

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1 Gas Partnership. This...of the collection of escrow withdraw  
2 requests, this is the only one we need a continuance on.  
3 We're ready to go on the rest of them. This one...we are  
4 showing that we put approximately \$3,000 more into the escrow  
5 account than the bank is showing and that's always a big  
6 problem because then we have to see if the checks came back  
7 or whatever. It's easier to check if we have less because we  
8 can then find the difference quicker. There are sixteen  
9 tracts, I think, or roughly. There are a lot of tracts in  
10 this unit. There is about \$160,000. We're \$3,000 out of  
11 balance in the direction that I described. They have...  
12 they're showing less than...yes, they're showing...we're  
13 showing we paid more. They're showing that they received  
14 less. So, we need a continuance on that to try and sort that  
15 out.

16 MASON BRENT: Okay, before we do that, let the  
17 record show that there are no other interested parties here  
18 for this matter. Any objections from the Board to continuing  
19 this item till next month?

20 (No audible response.)

21 MASON BRENT: Hearing no objections, we will  
22 continue that until December. The next item on our agenda,  
23 the Board will consider a petition from Pocahontas Gas

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1 Partnership for an amendment of a pooling order and  
2 authorization for disbursement of escrowed funds and direct  
3 payment of royalties for Tracts 2A and 2B, coalbed methane  
4 unit P-43 in Buchanan County, Virginia. This is docket item  
5 VGOB-00-03/21-0777-01. This too is continued from last  
6 month. We'd ask all the parties that would like to address  
7 the Board in this matter to come forward at this time.

8           MARK SWARTZ: Mark Swartz and Anita Tester on  
9 behalf of Pocahontas Gas Partnership.

10           MASON BRENT: Okay. Let the record there are no  
11 others. You may proceed.

12           MARK SWARTZ: Do you all have this packet on P-43?

13           SHARON PIGEON: Yes.

14           MARK SWARTZ: Okay, great. Okay, Anita,---.

15           MASON BRENT: I do not.

16           (Sharon Pigeon points out that it's in front of  
17 him.)

18           MASON BRENT: Oh...oh, I'm sorry.

19           (Witness is duly sworn.)

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21                           ANITA TESTER

22 having been duly sworn, was examined and testified as  
23 follows:

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DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Okay, Anita, we're talking about disbursements from two tracts here, I take it?

A. Yes.

Q. 2A and 2B?

A. Uh-huh.

Q. And that's going to still leave some amount in escrow. So, we're not going to be able to close the escrow account?

A. Right.

Q. Okay. Why don't you tell the Board what you've done, tell them about whether or not you've been able to balance the accounts and what it is you're requesting that they do.

A. Okay. I've compared the amounts that we've sent to escrow with the bank. This account balances to the penny. For Tract 2A, we need to disburse 74.38433%; and for Tract 2B, we need to disburse 21.25127%. For Tract 2B, we only own a portion of that tract and there are still some owners in there that haven't resolved their conflicts. So, that will be the only portion that remains in escrow. There was a balance of \$33,026.74 as of September the 25th, 2002.



1           Q.       So, basically what you're saying is you're  
2 going to be disbursing roughly 95 or 96% of the account?

3           A.       Yeah, that 4% is going to have to stay.

4           Q.       And it will be split in accordance with the  
5 folks that have reached the agreement with the folks listed  
6 on Exhibit EE?

7           A.       Yes.

8           Q.       Have reached concerning royalty splits,  
9 right?

10          A.       Yes.

11          Q.       And is there agreement for a 50/50 split?

12          A.       Yes.

13          Q.       So, when the...when the money comes out of  
14 escrow, the percentage for each tract would be divided in  
15 half between the claimants?

16          A.       Yes.

17          Q.       Okay. And are you also asking that the  
18 Board amend the pooling order that was previously entered to  
19 allow the operator to pay these folks directly in the future?

20          A.       Yes.

21          Q.       And if money should be deposited in this  
22 account then in the window between today and the disbursement  
23 from the account, should they simply return that check to you

24

--

1 to be reissued or should they...should they deposit it in the  
2 account and then split it on this percentage? Which would be  
3 your preference? Do you follow me?

4 A. As of the time of disbursement or---?

5 Q. What if...what if...I mean, is the  
6 percentage at all dependent upon no funds coming into this  
7 account between today and when the disbursement occurs?

8 A. Yes.

9 Q. Okay. So, if a deposit comes in after  
10 today, are you requesting that the Board order that deposit  
11 to be returned to the operator so you can make sure that this  
12 works?

13 MARK SWARTZ: Les, what's your preference in that  
14 regard?

15 LESLIE K. ARRINGTON: Well, what should happen here  
16 is...I have to go back and get the percentage.

17 MASON BRENT: Is he testifying?

18 (Mr. Arrington is duly sworn.)

19 LESLIE K. ARRINGTON: On this percentage here such  
20 as Tract...I'll use Tract 2B for instance, 21.25127% of 2B.  
21 It should be 21% of whatever is in the escrow account as of  
22 the disbursement because we can't stop the funds from going  
23 in until this order is written.

24

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1           MARK SWARTZ: Okay, but what I'm saying is the 21%  
2 can be applied to any future deposits and will work in  
3 balance appropriately. That's my question.

4           LESLIE K. ARRINGTON: Until the order is entered.

5           MARK SWARTZ: Okay.

6           LESLIE K. ARRINGTON: Yeah, that's correct.

7           MARK SWARTZ: Okay. So, I hopefully haven't  
8 confused this beyond all measure. But I'm going ask both of  
9 you one more time. Are you telling the Board that the  
10 percentages here that you're indicating can be disbursed are  
11 percentages that would apply to whatever amount is on deposit  
12 at the time of the disbursement and would be appropriate?

13           (No audible response.)

14           MARK SWARTZ: You have to answer out loud.

15           LESLIE K. ARRINGTON: Yes.

16           MASON BRENT: Okay. And then you said, anything  
17 that comes in after disbursement---?

18           MARK SWARTZ: It won't because you're going to be  
19 entering an order allowing us to stop it.

20           MASON BRENT: Okay, okay. And nothing will get  
21 caught and slip through the cracks?

22           MARK SWARTZ: I doubt it.

23           LESLIE K. ARRINGTON: We hope not. That's correct.

24

1           MASON BRENT:   Okay.

2           LESLIE K. ARRINGTON:   There should be approximately

3 4% still coming in.

4           BILL HARRIS:   Wait a minute.   I'm confused now.

5           MASON BRENT:   Does anybody have any questions to

6 ask?

7           BILL HARRIS:   Yeah, I'm confused.

8           MASON BRENT:   Mr. Harris.

9           BILL HARRIS:   This is...are we still...are you

10 saying there is a potential for adding more money to the

11 account?

12           MARK SWARTZ:   Well, there definitely is a potential

13 for adding money.

14           BILL HARRIS:   Okay.   I'm not sure if I understand

15 your question.

16           MARK SWARTZ:   Okay, this shows---.

17           BILL HARRIS:   Are you saying if money comes in,

18 then you want us to authorize that you all divide it the

19 same, using the same percentage?

20           MARK SWARTZ:   Correct.

21           BILL HARRIS:   Okay.

22           MARK SWARTZ:   Correct.   Which will result in some

23 of it staying in the account.

24

1           BILL HARRIS: Yes. Yes, the 4% or something or  
2 whatever?

3           MARK SWARTZ: Right.

4           BILL HARRIS: Okay. So, if it...well---.

5           MARK SWARTZ: Because these are...these percentages  
6 are calculated on acreages. So, the acreage never...that  
7 ratio never changes. So, we can...I just wanted to make sure  
8 that everybody understood we can leave that percentage in  
9 place or not, you know, it turns out we can, to cause the  
10 account to balance if there are future deposits between now  
11 and the time that their order to stop making the payment for  
12 those folks that have settled.

13           BILL HARRIS: Thank you.

14           MASON BRENT: Any other questions?

15           (No audible response.)

16           MASON BRENT: Do you have anything further, Mr.  
17 Swartz?

18           MARK SWARTZ: No, I don't.

19           MASON BRENT: I'd ask for a motion.

20           KEN MITCHELL: Mr. Chairman, I'd move for approval  
21 of VGOB-00-03/21-0777.

22           BILL HARRIS: Second.

23           MASON BRENT: Any further discussion?

24

1 (No audible response.)

2 MASON BRENT: All in favor, signify by saying yes.

3 (All members signify by saying yes.)

4 MASON BRENT: Opposed.

5 (No audible response.)

6 MASON BRENT: Okay, it's approved. The next item  
7 on our agenda, the Board will consider a petition from  
8 Pocahontas Gas Partnership for amendment of a pooling order  
9 and authorization for disbursement of escrowed funds and  
10 direct payment of royalties for Tracts 1 and 3, coalbed  
11 methane unit P-44 in Buchanan County, Virginia. This is  
12 docket number VGOB-00-03/21-0778-01. This too is continued  
13 from last month. We'd ask all the parties that would like to  
14 address the Board in this matter to come forward at this  
15 time.

16 MARK SWARTZ: Mark Swartz, Anita Tester and Les  
17 Arrington.

18 MASON BRENT: All right. There being no other  
19 parties here, you may proceed.

20

21 ANITA TESTER

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. SWARTZ:

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1                   Q.       Anita, go ahead and explain to the Board  
2 what you've done here and what needs to happen.

3                   A.       Okay, this account is similar to the last  
4 one. The account balances to the penny. The balance was  
5 \$650.50. Like the other one, we've only purchased a portion  
6 of this. So, only 82.96199% can be disbursed with 50% going  
7 to each owner. The remaining 17.03801% will remain in  
8 escrow.

9                   Q.       And will...if there are deposits between now  
10 and the Board ordering the operator to discontinue payments  
11 to the people...into escrow for the people who have got a  
12 split agreement, can the escrow agent and the Board use these  
13 percentages to deal with future payments going into escrow  
14 after today?

15                  A.       Yes.

16                  Q.       Is the only tract that will be in escrow  
17 Tract 1 because I notice there's a note on the second page of  
18 the exhibits that there was a Tract 3 disbursement  
19 previously?

20                  A.       Yes. And that one...we did that one, I  
21 think maybe last year. That's already been taken care of.

22                  Q.       And when we did Tract 3, did it clear that  
23 sub-account out?

24

--

1 A. Yes.

2 Q. So, the only sub-account left would be the  
3 17.3801% of Tract 1?

4 A. Yes. 1A.

5 Q. 1A.

6 A. Oh, no, 1. That's right.

7 Q. Okay. So, we should correct the note by  
8 crossing out the A after 1?

9 A. Uh-huh.

10 Q. Okay.

11 A. It's correct up here, though.

12 MARK SWARTZ: That's all I have on this one, Mr.  
13 Chairman.

14 MASON BRENT: Any questions from the board?  
15 (No audible response.)

16 MASON BRENT: Do we have a motion for approval?

17 KEN MITCHELL: So moved, Mr. Chairman.

18 MASON BRENT: Okay, we have a motion. Do we have a  
19 second?

20 BILL HARRIS: Second.

21 MASON BRENT: Any further discussion?  
22 (No audible response.)

23 MASON BRENT: All in favor of the motion, signify  
24



1 by saying yes.

2 (All members signify by saying yes.)

3 MASON BRENT: Opposed, no.

4 (No audible response.)

5 MASON BRENT: You have unanimous approval. The  
6 next item on our agenda the Board will consider is a petition  
7 from Pocahontas Gas Partnership for amendment of a pooling  
8 order and authorization for disbursement of escrowed funds  
9 and direct payment of royalties for Tract 1, coalbed methane  
10 unit Q-42 in Buchanan County, Virginia. This is docket item  
11 VGOB-93-02/16-0326-01. We'd ask all the parties that would  
12 like to address the Board in this matter to come forward at  
13 this time.

14 MARK SWARTZ: Mark Swartz, Anita Tester and Les  
15 Arrington.

16 MASON BRENT: There are no others. You may  
17 proceed.

18

19 ANITA TESTER

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Anita, are the only tracts escrowed in this  
23 unit, Tracts 1 and 3, or are there others in addition to

24

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1 that? Do you know?

2 A. No, that's the only one.

3 Q. And it looks like the request here is that  
4 we disburse the entire balance of Tract 3, but that there  
5 will remain a small percentage roughly five and a  
6 quarter...5.2% in Tract 1, is that correct?

7 A. Yes.

8 Q. Is the reason that there will be a small  
9 percentage left in Tract 1 that the people that entered in  
10 the split agreements were less than all of the owners?

11 (Leslie K. Arrington and Anita Tester confer.)

12 Q. Les needs to not talk to you when I'm asking  
13 a question. You need to tell him that.

14 (Laugh.)

15 Q. Okay, my question is, is the reason that  
16 we're going to be leaving a little over 5% in Tract 1 because  
17 not all of the owners have entered into split agreements?

18 A. Right.

19 Q. Okay. Do we need to correct any of the  
20 information on these exhibits with regard to Q-42, or is it  
21 correct to submit it today?

22 A. Correct.

23 Q. Okay. And tell the Board what you did in  
24

1 terms of balancing, whether the not the accounts actually  
2 balance and what it is you're requesting in the way of  
3 disbursements?

4           A.       Okay, on this account, it started back in  
5 '93 and we had...First Virginia was taking care of this  
6 account up until 2000. I noticed several times when we've  
7 come to do, like disbursements, there will be a \$10  
8 difference here or an ending balance doesn't match a  
9 beginning month's balance on a ledger sheet. So, that's what  
10 happened here. On July...the July '96 deposit on the ledger  
11 sheet, the ending balance for July...or June doesn't match  
12 the beginning balance in July and it's off \$.83. I know  
13 before when they were here doing these accounts, we could get  
14 them to put that money back if there was a mistake or  
15 whatever. But since they're not here, I don't know, you  
16 know, how we can do that. But, you know, I've only come up  
17 with a difference of \$.83 and that's where that I found the  
18 ending balance didn't match the beginning balance. Other  
19 than that everything is...there is a \$111,000...\$111,372.88.  
20 94.8265% of escrow will be disbursed to the two owners in  
21 Tract 1. So, other than that, I don't know how you want to  
22 handle the \$.83. Everything else was fine.

23           Q.       Is the \$.83...the bank is showing \$.83 less  
24

1 than you think it should or more?

2 A. Less.

3 Q. I guess they could order the bank to add the  
4 \$.83, huh?

5 A. Well, it was First Virginia. So, I don't  
6 know. I know we've done that before when they were here.

7 MASON BRENT: We may order the operator to pay the  
8 \$.83.

9 MARK SWARTZ: Well---.

10 BILL HARRIS: Does this happen fairly frequently  
11 that we're off a few cents here and there? Not we, but you  
12 all.

13 ANITA TESTER: Well, like on the ones that are  
14 coming up pretty soon, you'll notice that there is...a lot of  
15 times, there's a \$10 difference. That has happened before  
16 too, and we've had them put the \$10 back in. It's either \$10  
17 or the ending balance doesn't match the beginning month's  
18 balance. I don't know how---.

19 BILL HARRIS: Do they have an explanation?

20 ANITA TESTER: No. I know we've had them deposit  
21 the 10...you know, make a \$10 deposit in there because, you  
22 know, the deposit being \$10 less showing up on the ledger  
23 sheet than what our check actually was for. That's happened  
24

1 ...that's going to be on some of these other units that come  
2 up.

3 BILL HARRIS: What's normally done in business...I  
4 mean, do they...does the bank just say, oh, it's our mistake  
5 and put that back in, or does there have to be some type of  
6 legal action or---?

7 MARK SWARTZ: The problem we're having, Bill, is  
8 that, and let's take this July of '96, the current escrow  
9 agent is not the escrow agent that made the mistake.

10 BILL HARRIS: Right. Oh, okay.

11 MARK SWARTZ: If we were dealing in the past---.

12 BILL HARRIS: Yeah, that's right.

13 MARK SWARTZ: If we were dealing with somebody that  
14 we knew---.

15 BILL HARRIS: The same folks, yeah.

16 MARK SWARTZ: ---made the mistake, you know, we  
17 would just say, you made a mistake, fix it. And the  
18 difference here is there's a mistake that a predecessor  
19 escrow agent made because...I mean, they're ending a balance  
20 and they're beginning the next month with a difference. It's  
21 their problem clearly. And...and that...that has happened  
22 from time to time. It doesn't happen real often. But I  
23 recall some of these as well. But the problem here is not

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1 that we...we are uncertain as to what happened. It's just  
2 what do you want to do because we're dealing with a different  
3 party.

4 MASON BRENT: I...you know, I would be inclined to  
5 want to go ahead and use the operator's balance since the  
6 greater of the balance is. But my only concern is, you know,  
7 I don't want to set any precedent where, you know, we're  
8 always taking the operator's balance because going forward,  
9 we made find some day the operator's balance is less than the  
10 bank says and the operator says, "well, before you used that  
11 balance. Why don't you use our balance now?"

12 MARK SWARTZ: I can't imagine that we would make  
13 that argument, but you never know.

14 ANITA TESTER: Well, the operator balance is just a  
15 mathematical balance. It doesn't mean...I mean, the bank  
16 balance is actually what's there. The operator balance is  
17 just taking the deposits and the income and just going...  
18 that's just a mathematical balance.

19 MASON BRENT: Well, I understand that. But if we  
20 use the operator's balance, we'd simply be telling the  
21 operator to make good the \$.83 on the bank's behalf.

22 MARK SWARTZ: I understand. I mean, we don't care.  
23 We just want to get this money out of there.

24

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1           DONALD RATLIFF: Mr. Chairman, we're talking about  
2 \$.83 from '96?

3           ANITA TESTER: Uh-huh.

4           DONALD RATLIFF: When we switched depositors, did  
5 we not reconcile all the accounts at the time to make sure  
6 that we could?

7           MASON BRENT: It was a...I recall the time we made  
8 the switch. These accounts were in such disarray. It's one  
9 reason why we were trying to find somebody else to handle it.  
10 It was...it took a yoman's duty to get these things straight  
11 and a whole a lot time to do it. It's not like there was  
12 just one or two mistakes that needed to be cleaned up. If my  
13 recollection is not right, go ahead and---.

14           MARK SWARTZ: Well, it was...that would have been a  
15 great idea, but the dollars and manpower that would have been  
16 associated with that kind of an effort was beyond everybody's  
17 ability at that point and we had a big problem too, which is  
18 also...we knew we had a problem, which is why we changed  
19 operators or escrow agents.

20           MASON BRENT: Any other questions or thoughts or  
21 input?

22           BILL HARRIS: I'm not sure what we do. I guess my  
23 concern is, you know, if there are other accounts out there  
24

1 like this. I mean, \$.83 is...far be it from me to say  
2 negligible, but considering, you know, you're talking a  
3 \$111,000. Although you want these things to balance, you  
4 know, with all respect to it. I don't know if you do  
5 accounting or...obviously you do. But, you know, I'm not  
6 sure what approach to take because I can see in the future  
7 this being, you know, a \$100 difference or something like  
8 that. You know, a difference of a \$100 or...you know, what  
9 happens then? I don't know if we need to...if that's a  
10 separate issue we need to take some action on the balances or  
11 if we can.

12 BOB WILSON: Mr. Chairman.

13 MASON BRENT: Mr. Wilson.

14

15 BOB WILSON: I think it's safe to say that we're  
16 going to have discrepancies in these accounts as we go along.  
17 We have found that to be case in the past. It pretty much  
18 involves a system of assessing it on a case by case basis. I  
19 don't think that anything you do on one individual account is  
20 going to set a precedent because each and every one is going  
21 to be totally a different animal. It's going to have...  
22 that's why we take them through one at a time as opposed to  
23 just authorizing the disbursement. And for...just for

24

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1 general information, these accounts, of course, are carried  
2 at the bank only to the level of the VGOB account number. In  
3 other words, it's not broken up into tracts or anything until  
4 there is an application for disbursement. And at that time  
5 it's broken out and balanced according to tracts and the  
6 attempt is made to balance the operator's deposits with those  
7 that the bank received in adding in the interest that the  
8 bank has added on to it. Something that hasn't been pointed  
9 out, the previous escrow agent was First Virginia. But that  
10 was an inheritance from predecessor banks that had been  
11 merged, been merged and remerged. A lot of the records were  
12 in very, very poor condition. And they're what we have to  
13 deal with. That's the only thing we're going to have to deal  
14 with. And we have...on some of these I think we've taking  
15 the tack that so long as the recipients agree with the  
16 accounting, and nobody has any major objections to them,  
17 that's...we've gone with that. The Board can only disburse  
18 what's shown in the account. That would have to either be  
19 corrected or there would have to be an agreement to disburse  
20 that amount of money because we would have no means of  
21 creating money or anything of the sort. So, the bottom line  
22 with the Board is that whatever shows up in a particular  
23 tract account after they have done their accounting is what  
24

1 we have to deal with. If we don't like that number, then  
2 maybe there's remedies that we can go back to.

3           MARK SWARTZ: Well, we have had a couple of  
4 instances where...where we've been talking about more than  
5 chump change. I mean, several thousands dollars. And what's  
6 happened...I mean, we have never come before the Board  
7 without an explanation as to why it's different. We can  
8 always find what happened. What happened here is somebody  
9 made an error in posting a balance. I mean, it's...you know,  
10 we know the answer. Or somebody transposed a digit in making  
11 a deposit. You know, I mean, we find the answer. What has  
12 happened a couple of times is when we really are out of  
13 whack, our records compared to theirs, is they put the money  
14 that we sent them in a completely wrong account and then we  
15 track that down. So, in terms of your concern, which, you  
16 know, is a legitimate concern, so far, you know, every time  
17 we've had a variance, you know, we have been able to come  
18 before you and say, "this is what happened." I mean, it's  
19 never some unsolved mystery. At which point, I agree with  
20 Mr. Wilson, you know, we then make some sensible  
21 recommendation or decision that you make to deal with that  
22 particular problem in that particular account. And sometimes  
23 there have been some...some mistakes in terms of posting that

24

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1 the bank has made and so forth and the parties...the  
2 recipients just come in and say it's demeanious and we don't  
3 care and they tell you that and that fixes the problem. But  
4 we always, you know, seem to be able to figure out what  
5 happened, why the numbers are different, and then...with, you  
6 know, sometimes in cooperation with the bank and sometimes  
7 from our records, we can reconstruct, you know, what  
8 needs...what needs...what needs to occur. So, you know, at  
9 least so far we have...I don't think we have ever had a  
10 situation where we just couldn't come to some resolution as  
11 to what happened and why. You know, hopefully that will  
12 continue, though.

13 MASON BRENT: Well, I think, you know, my only  
14 concern, and this is a small matter, is just for the 4%  
15 that's still going to be in there...4 or 5% that's still  
16 going to be in there. I would be inclined to think that if  
17 your parties are agreeable to using the bank balance, which  
18 is the lesser balance that we show here.

19 MARK SWARTZ: I can't imagine that...well, I know  
20 we can speak for Reserve Coal Properties. They don't care.  
21 I can't imagine Hurt McGuire is going to care either. But  
22 we'll find out.

23 BOB WILSON: Mr. Chairman, I'll point out again,

24

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1 that all parties to these disbursements are notified by  
2 letter of these hearings and they have the opportunity to be  
3 here.

4 MASON BRENT: Okay, thank you. Any other questions  
5 or input?

6 (No audible response.)

7 MASON BRENT: Do you have anything further?

8 MARK SWARTZ: Well, actually I have one  
9 observation. If we found a major league mistake in First  
10 Virginia's records, it would be my assumption that the  
11 operator and the Board would look back to their stewardship  
12 and that they're not off the hook just because they passed,  
13 you know, the gau...you know, passed whatever it was along to  
14 the next person. So, I mean, I feel like, you know, this is  
15 a cost effective solution here, you know, and sometimes we've  
16 contributed some, you know, the banks...but, you know, if  
17 there was some monumental error that they made that we were  
18 able to determine, I mean, I would assume that the Board and  
19 my client would be looking to them to straighten it out, you  
20 know, just because, you know, if the fumble occurred on their  
21 watch. So, I think, you know, they're not without...in my  
22 view, without some ongoing responsibility for their work. I  
23 mean, with that...I'm not sure that's pertinent. But I think

24

--

1 we're talking about the what ifs. But I have nothing further  
2 with regard to this.

3 MASON BRENT: Okay, we have a request for  
4 disbursement. Is there a motion?

5 KEN MITCHELL: Mr. Chairman, I would move for  
6 approval...when I say approval, it's disbursement of the  
7 existing funds as is, and that is minus the \$.83. So, like  
8 what was previously stated, if it was \$3,800, I think both  
9 parties would be willing to send letters and representatives  
10 to First Virginia. However, under an \$.83 difference, if you  
11 as an attorney wrote a letter, you're going to spend \$15 in  
12 typing time and communication time to recover \$.83.

13 MARK SWARTZ: It might even be more.

14 KEN MITCHELL: It may be more.

15 (Laugh.)

16 KEN MITCHELL: I was being conservative. That's my  
17 conservative side. But my motion is for approval of the  
18 existing funds as we know them today, which is minus the  
19 \$.83.

20 MASON BRENT: Okay, we have a motion.

21 DONALD RATLIFF: Second.

22 MASON BRENT: We have a second. Any further  
23 discussion?

24

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1 (No audible response.)

2 MASON BRENT: Okay, all in favor, signify by saying

3 yes.

4 (All members signify by saying yes.)

5 MASON BRENT: Opposed?

6 (No audible response.)

7 MASON BRENT: Okay, you have approval for

8 disbursement of those percentages based on the bank's balance

9 as reported.

10 MARK SWARTZ: Right.

11 ANITA TESTER: It's easier to put a percentage than

12 a dollar figure because then that just...when it comes time

13 for disbursement at the bank---.

14 MASON BRENT: It's covered, right?

15 ANITA TESTER: Yeah.

16 MASON BRENT: And this account will live on with

17 this discrepancy until somebody gets it straight. Okay, the

18 next item on the agenda, the Board will consider a petition

19 from Pocahontas Gas Partnership for amendment of a pooling

20 order and authorization for disbursement of escrowed funds

21 and direct payment of royalties for Tract 2, coalbed methane

22 unit Q-41 in Buchanan County. This is docket item VGOB-93-

23 02/16-0327-01. We'd ask the parties that are interested in

24

1 addressing the Board in this matter to come forward at this  
2 time.

3 MARK SWARTZ: Mark Swartz, Anita Tester and  
4 possibly Les Arrington.

5 MASON BRENT: Okay, for the record, there are no  
6 others. You may proceed.

7

8 ANITA TESTER

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. SWARTZ:

11 Q. As I look at Exhibit E, Anita, it looks like  
12 the folks that have agreed here are the Hurt McGuire and  
13 Consolidation Coal Company, correct?

14 A. Yes.

15 Q. And so...and they've reached an agreement  
16 effecting Tract 2 only?

17 A. Yes.

18 Q. So, all...the action that we're asking the  
19 Board to take here would be to disburse a portion of Tract 2,  
20 correct?

21 A. Yes.

22 Q. And have you indicated that percent on your  
23 exhibit?

24

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1           A.       Yeah. Well, it will be all of Tract 2.

2           Q.       Okay. So, you're asking for all of Tract 2,  
3 which is 72.6608% of the total funds on escrow?

4           A.       Yes.

5           Q.       And so then the escrow...the remaining  
6 balance of, you know, roughly 27% and change would pertain to  
7 Tracts 3 & 4?

8           A.       Yes.

9           Q.       Why don't you tell the Board what you were  
10 able to do in terms of balancing and let's move forward.

11          A.       Okay, when comparing this account with what  
12 we sent in and what the bank has received, the October '94  
13 deposit was minus \$10. Then going forward, the July '96  
14 beginning balance didn't match the July...or the June '96  
15 ending balance, which that made...that was a difference of  
16 minus \$.53. And then December '97, the December beginning  
17 balance didn't match the November '97 previous balance and  
18 that was over one penny. So, all together the...you know,  
19 the account is off \$10.52 according to what we've sent in.  
20 The total balance is \$37,796.55.

21          Q.       And the 72.6608% would be applied to that  
22 balance or any other funds that came in before the Board  
23 entered it's order allowing the operator to discontinue  
24



1 payments with regard to Tract 2 into escrow, correct?

2 A. Yes.

3 (Mark Swartz and Leslie K. Arrington confer.)

4 MARK SWARTZ: We're going to send in \$10.52 as the  
5 most cost effective solution, and as Anita has testified,  
6 this is not our fault. Okay, but in terms of how much time  
7 and effort and resources we're going to devote to this,  
8 particularly since there is going to be money remaining on  
9 deposit. So, we'll solve this problem by making a deposit of  
10 \$10.52 to balance this if that's...if the rest of this  
11 proposal works for the Board. That's all I have.

12 MASON BRENT: Any questions?

13 (No audible response.)

14 MASON BRENT: All right. We have a request for  
15 disbursement. Is there a motion for approval with the  
16 stipulation that they deposit \$10.52 into the account?

17 BILL HARRIS: Mr. Chairman, I so move for the  
18 approval with that stipulation.

19 DONALD RATLIFF AND KEN MITCHELL: Second.

20 MASON BRENT: Any further discussion?

21 (No audible response.)

22 MASON BRENT: All in favor, signify by saying yes.

23 (All members signify by saying yes.)

24

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1           MASON BRENT:  Opposed?  
2           (No audible response.)  
3           MASON BRENT:  You have approval.  
4           BILL HARRIS:  Let me ask a question.  This is a  
5  general one.  That's why I waited until after the motion.  
6  How...how does the bank end a balance of one month and the  
7  beginning balance of next month, how can that be different?  
8  I mean, I know it can be.  But---.  
9           MARK SWARTZ:  Because amazingly some of these banks  
10  did not have computerized records.  So, it was a manual...you  
11  know, I mean, if you had...if you're familiar presumably with  
12  computerized---.  
13          BILL HARRIS:  Yeah.  
14          MARK SWARTZ:  I mean, it just rolls your system  
15  over.  
16          BILL HARRIS:  Yeah.  You would think---.  
17          MARK SWARTZ:  I mean, you're right.  How could this  
18  happen?  
19          BILL HARRIS:  Yeah.  
20          MARK SWARTZ:  But when we went back in a bunch of  
21  these records, it was all manual.  That was the problem.  You  
22  know, your question, Donald, was, you know, what...you know,  
23  why couldn't we balance?  Well, we weren't dealing with a  
24

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1 computer data base that we could work with. We were dealing  
2 with boxes of manual records. That...you know, as we get  
3 further down here, they have computerized records now and  
4 they can generate pretty decent reports for us, you know, by  
5 pushing a button. But that's the problem. That's how that  
6 happened.

7 BILL HARRIS: Um, that's amazing. It really is.

8 MARK SWARTZ: Yeah. Right. I mean, it's like the  
9 dark ages, you know.

10 BILL HARRIS: I mean, even with that, you would  
11 think that...here's April, here's the first of May---.

12 LESLIE K. ARRINGTON: The next time we come, we'll  
13 bring one of those ledger sheets---.

14 ANITA TESTER: Yeah.

15 LESLIE K. ARRINGTON: ---just to show you how that  
16 was happening.

17 MARK SWARTZ: I mean, we were dumbfounded.

18 BILL HARRIS: Okay. Thank you. I just was  
19 curious.

20 MARK SWARTZ: So was Bob. Look at him.

21 (Laugh.)

22 DONALD RATLIFF: Mr. Chairman, since we're in an  
23 educational mode here, how do we have a net income and a  
24

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1 negative balance on the balance sheet?

2 MARK SWARTZ: The fees.

3 LESLIE K. ARRINGTON: The fees.

4 DONALD RATLIFF: The bank fees?

5 MARK SWARTZ: They charge...they all have had  
6 different arrangements with the Board, and I can't recall,  
7 you know, how they were doing it way back when. But they  
8 were...there have been...there was a monthly service fee at  
9 one point based on a balance, I think. Then we went to a  
10 transactional fee charge so that, you know, it would be so  
11 much for a deposit. So much for (inaudible). So, there  
12 would be times depending on when they booked their fees, and  
13 the first bank, as I recall, didn't book a fee every month.

14 BILL HARRIS: I think they waited until there was  
15 enough balance that it wouldn't be a negative balance.

16 MARK SWARTZ: Right. And so---.

17 BILL HARRIS: Seems to me I remember something---.

18 MARK SWARTZ: But a negative...if you see a  
19 negative income, that is a month in which fees were booked  
20 and the royalty revenue was minuscule.

21 DONALD RATLIFF: It's not on a percentage basis.  
22 That's why I asked because here's \$512 deposited one month,  
23 but a fee of \$293. Then \$1400 was deposited three times and  
24

1 the fees \$565. That's why I couldn't make sense of why...why  
2 it was so different.

3 MARK SWARTZ: Yeah, but see, if you...if you look  
4 at that---.

5 DONALD RATLIFF: It's not on a percentage?

6 MARK SWARTZ: Well, I don't know how many months  
7 that \$560 fee pertains to. So, I...I don't know. I don't  
8 know if they were taking the total in the entire escrow  
9 account and applying a fee to that and then spreading it  
10 across the various accounts. Do you know?

11 ANITA TESTER: Unh-unh.

12 MARK SWARTZ: Yeah.

13 DONALD RATLIFF: Okay. That explains it.

14 MARK SWARTZ: Well, I don't know if it explains it,  
15 but you can see that---.

16 ANITA TESTER: This column is actually made up of  
17 several columns. There's an interest column, a disbursement,  
18 a transfer of funds, gain and the loss, and then I just...I  
19 just have one column on here that says net income and just  
20 have that showing. That's a combination of several different  
21 fees and transaction. I just hide that.

22 DONALD RATLIFF: Thank you.

23 MASON BRENT: Okay. The next item on the agenda,  
24

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1 the Board will consider a petition from Pocahontas Gas  
2 Partnership for amendment of a pooling order and  
3 authorization for disbursement of escrowed funds and direct  
4 payment of royalties for Tract 4, coalbed methane unit P-41  
5 in Buchanan County, Virginia. This is docket item VGOB-93-  
6 02/16-0329-01. We'd ask all the parties that are interested  
7 in addressing the Board in this matter to come forward at  
8 this time.

9 MARK SWARTZ: Mark Swartz, Anita Tester and Les  
10 Arrington.

11 MASON BRENT: There are no others. You may  
12 proceed.

13

14 ANITA TESTER

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17 Q. From Exhibit EE, it looks like again we've  
18 got Hurt McGuire and Reserve Coal entering into a royalty  
19 split agreement. I assume it's 50/50?

20 A. Yes.

21 Q. And it's with regard to Tract 4, right?

22 A. Uh-huh.

23 Q. And Tracts 2, 5 & 6 need to remain in escrow,

24

--

1 correct?

2 A. Yes.

3 Q. And to disburse Tract 4, the percentage that  
4 the escrow agent needs to apply to the then balance would be  
5 21.6026%, is that correct?

6 A. Yes.

7 Q. Tell the Board where we are in terms of  
8 balancing this account.

9 A. Okay, in comparing the amounts that we sent  
10 into the Bank, this account matches to the penny. There's a  
11 total balance of \$50...\$50,507.29.

12 MARK SWARTZ: That's all I have.

13 MASON BRENT: Any questions from the Board?

14 DONALD RATLIFF: Mr. Chairman, I move for approval  
15 of item eight on the agenda.

16 MASON BRENT: I have a motion for approval.

17 BILL HARRIS: Second.

18 MASON BRENT: We have a second. Any further  
19 discussion?

20 (No audible response.)

21 MASON BRENT: All in favor of the motion, signify  
22 by saying yes.

23 (All members signify by saying yes.)

24

1           MASON BRENT:   Opposed?

2           (No audible response.)

3           MASON BRENT:   You have approval.   The next item on  
4 the agenda, the Board will consider a petition from  
5 Pocahontas Gas Partnership for amendment of a pooling order  
6 and authorization for disbursement of escrowed funds and  
7 direct payment of royalties for Tract 1, coalbed methane unit  
8 R-42 in Buchanan County, Virginia.   This is docket item VGOB-  
9 93-02/16-0342-01.   We'd ask the parties that are interested  
10 in addressing the Board in this matter to come forward at  
11 this time.

12           MARK SWARTZ:   Mark Swartz, Anita Tester and Les  
13 Arrington.

14           MASON BRENT:   There being no others.   You may  
15 proceed.

16           (Anita Tester and Mark Swartz confer.)

17

18                           ANITA TESTER

19                           DIRECT EXAMINATION

20   QUESTIONS BY MR. SWARTZ:

21           Q.       Anita, when I compare the spreadsheet, which  
22 shows Tracts 2 and 3, does the spreadsheet have the Virginia  
23 Gas and Oil Board tract numbers from the order?

24

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1           A.       No. That's actually the Conoco number.  
2           Q.       Is what got posted here?  
3           A.       Yeah.  
4           Q.       Okay. What's shown is a VGOB tract number  
5 is actually a Conoco number?  
6           A.       Uh-huh.  
7           Q.       And what would the VGOB numbers be instead  
8 of 2 and 3 here?  
9           A.       It would be 1 and 3.  
10          Q.       1 and 3, okay.  
11          BILL HARRIS: So, 2 should be 1?  
12          MARK SWARTZ: Yeah.  
13          ANITA TESTER: Uh-huh.  
14          MARK SWARTZ: And 3 should be 3.  
15          Q.       Then if we look at the exhibits behind  
16 there, then we have Tract 1, which is subject to the split  
17 agreement, correct?  
18          A.       Yes.  
19          Q.       Hurt McGuire and Reserve Coal have agreed to  
20 split their entitlement to the balance and the sub-account  
21 for Tract 1, is that correct?  
22          A.       Yes.  
23          Q.       And they would need to split on a 50/50  
24

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1 basis?

2 A. Uh-huh.

3 Q. And then with regard, if you turn the page,  
4 it appears that the Hurt McGuire heirs and Norfolk Southern,  
5 who are the claimants of Tract 3, have not reached an  
6 agreement yet?

7 A. Right.

8 Q. So, that would...those funds would need to  
9 remain on deposit?

10 A. Yes.

11 Q. To accomplish the disbursement with regard  
12 to Tract 1, VGOB number 1, would it be true that escrow  
13 agents should apply 86.8108% to the then balance and disburse  
14 that sum 50/50 to the Hurt McGuire heirs and Reserve Coal?

15 A. Yes.

16 Q. Okay, tell the Board what...what the  
17 situation here is in terms of balancing this account?

18 A. Okay, when comparing on this unit, the  
19 October '94 deposit was a negative \$10 deposit. The July '96  
20 deposit was...the same thing with the deposit the previous  
21 month not matching the beginning month's balance and it was  
22 off \$.24. So, all together, it was \$10.24 difference than  
23 what we show that we have deposited. The bank balance is

24

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1 \$13,974.09.

2 MARK SWARTZ: Do you want to do the same on this  
3 one, Les?

4 LESLIE K. ARRINGTON: Yeah. For today, we'll do  
5 the same thing. Next month, we'll...the next time we come in  
6 with differences, we will bring the...all these ledger sheets  
7 and what have you in to show what was transpiring. So, you  
8 know, the operator...if the bank is making an error in  
9 accounting, I don't see that the operator should be  
10 responsible for those accounting errors. But to balance the  
11 account for this one, we will do that.

12 MARK SWARTZ: If we provide the Board with  
13 documentation in this regard, I mean, would the Board  
14 entertain sending a letter to the prior escrow agent, I mean,  
15 to correct the errors? I mean, you know, we can do this to  
16 facilitate this, but, I mean, if...you know, if this  
17 continues, we need to just document it and...I mean, would  
18 you at least entertain that request by us?

19 MASON BRENT: I'm sure the Board would entertain  
20 that. I just want to be clear, I mean, we're on record here  
21 as acknowledging, due to your testimony, that these mistakes  
22 are not the operator's fault.

23 MARK SWARTZ: Right.

24

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1           MASON BRENT: I mean, it's the bank's fault.  
2 That's very clear on record here. We just want to be  
3 careful, since we are dealing with discrepancies here in how  
4 we handle it. We also need to be clear that if you agree to  
5 bring these accounts into balance, it's not under duress. I  
6 mean, we're not ordering you to do this.  
7           MARK SWARTZ: Well---.  
8           MASON BRENT: I trust you're in agreement with  
9 that.  
10          MARK SWARTZ: I mean...yes. Right. I mean, we're  
11 trying to find a cost effective means to get closure on these  
12 accounts.  
13          MASON BRENT: Right.  
14          MARK SWARTZ: But I think what I've just said is  
15 that we may well be asking you to help us get some, you know,  
16 settlement back. I mean, it's not a lot of money. But on  
17 the other hand, they need to step up to the plate if we  
18 can...if we can document this from their ledgers and we may  
19 well ask you to assist us in the future in that regard.  
20 That's all.  
21          MASON BRENT: Is there any objection from the Board  
22 to considering that in the future?  
23          DONALD RATLIFF: I have no problem with it.

24

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1           MARK SWARTZ: That's all I have on this unit.

2           MASON BRENT: So, this order as well would be  
3 modified to provide for you bringing this account into  
4 balance. Any questions, comments or input?

5           (No audible response.)

6           MASON BRENT: And do we have a motion for approval?

7           BILL HARRIS: Mr. Chairman, I move for approval of  
8 this docket item nine, the 0342-01 item.

9           MASON BRENT: We have a motion for approval.

10          DONALD RATLIFF: Second.

11          MASON BRENT: We have a second. Any further  
12 discussion?

13          (No audible response.)

14          MASON BRENT: All in favor, signify by saying yes.  
15          (All members signify by saying yes.)

16          MASON BRENT: Opposed?

17          (No audible response.)

18          MASON BRENT: You have approval. The next item on  
19 the agenda, the Board will consider a petition from  
20 Pocahontas Gas Partnership for amendment of a pooling order  
21 and authorization for disbursement of escrowed funds and  
22 direct payment of royalties for Tracts 1A...Tract 1A, coalbed  
23 methane unit Q-44 in Buchanan County, Virginia. This is  
24

1 docket item VGOB-00-03/21-0780-01. We'd ask the parties that  
2 would like to address the Board in this matter to come  
3 forward at this time.

4                   MARK SWARTZ: Mark Swartz, Anita Tester and Les  
5 Arrington.

6                   MASON BRENT: Being no others, you may proceed.

7

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ANITA TESTER

13

DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15                   Q. Anita, if I understand the exhibits here, it  
16 looks like the James M. McGuire Trust and Reserve Coal have  
17 reached a split agreement with regard to Tract 1A, is that  
18 correct?

19                   A. Yes.

20                   Q. And is there an agreement that they divide  
21 the escrowed funds with...that pertain to Tract 1A on a 50/50  
22 basis?

23                   A. Yes.

24

--

1 Q. Okay. Are there also other owners in Tract  
2 1A that haven't agreed?

3 A. Yes.

4 Q. Okay. And does...so, in order to disburse  
5 Tract 1A to the owners who have reached a settlement  
6 agreement, are you requesting that the Board...that the Board  
7 authorize the escrow agent to disburse 35.60897%?

8 A. Yes.

9 Q. And that would be split 50/50 to each owner,  
10 correct?

11 A. Uh-huh.

12 Q. And that would leave 7.31306% in Tract 1A  
13 for the owners...benefit of the owners that have not...owners  
14 or claimants that have not agreed, right?

15 A. Yes.

16 Q. And then there would also be a balance left  
17 with regard to Tract 1B where we have no agreements?

18 A. Correct.

19 Q. And the escrow requirement for Tract 1A  
20 going forward and for 1B going forward is...and the folks  
21 effected by that are...is shown on Exhibit E, correct?

22 A. Yes.

23 Q. Tell the Board what you did with regard to  
24

1 balancing this account and whether or not you were able to do  
2 so.

3           A.       Okay, in comparing our deposits with the  
4 bank's deposits, everything seems to balance and there is a  
5 total balance of \$5,212.32. So, there's no discrepancies on  
6 this unit.

7           MARK SWARTZ: That's all we have on this one.

8           MASON BRENT: That's good to hear.

9           (Laugh.)

10          MASON BRENT: Any questions from the Board?

11          BILL HARRIS: Mr. Chairman, I have a question.

12          MASON BRENT: Mr. Harris.

13          BILL HARRIS: In the past, I think all of the folks  
14 that we were approving for disbursement were a 100% for a  
15 particular tract. Was that not true?

16          MARK SWARTZ: Even today it wasn't.

17          BILL HARRIS: Oh, is that right?

18          MARK SWARTZ: Yeah.

19          BILL HARRIS: Okay, I just overlooked that then. I  
20 just wondered if some of these folks who have not reached an  
21 agreement, the other 77%...well, it's not a large amount. Is  
22 there any chance that there would be some legal action in  
23 which they would garner a larger percentage? What happens in  
24

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1 that case?

2                   MARK SWARTZ: The reason we give notice of these...  
3 the Board gives notice of these hearings is to alert people  
4 in the...because the problem that you're thinking about, I'm  
5 guessing, is that because the original escrow agents created  
6 one account for all tracts in the unit and commingled those  
7 funds, there's an argument to be made because what we're  
8 effectively doing here is we're sitting up sub-accounts at  
9 this point.

10                  BILL HARRIS: Yes.

11                  MARK SWARTZ: I mean, that's what Anita has done  
12 here. So, at least on this unit going forward, we have sub-  
13 accounts and we'll have a much better trail going forward.  
14 To the extent that somebody wanted to argue the point that  
15 you're raising that some how this allocation of funds between  
16 tracts is inappropriate, they were given notice and they  
17 really needed to avail themselves of the opportunity today.  
18 So essentially, the Board has afforded them due process for  
19 state action. So, we're assuming that, yes, people could  
20 argue about that, but today's their day.

21                  BILL HARRIS: Yeah, but they're not here. Yes,  
22 okay, I understand.

23                  MARK SWARTZ: To answer your question.

24

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1           BILL HARRIS: Thank you. Thank you.

2           MASON BRENT: Any other questions?

3           DONALD RATLIFF: Mr. Chairman.

4           MASON BRENT: Yes, sir, Mr. Ratliff.

5           DONALD RATLIFF: Why would the McGuire trust be

6 shown on Exhibit EE and Exhibit E with the same acreage?

7 Should they come off of Exhibit E?

8           ANITA TESTER: They're still in conflict with the

9 remaining owners. What that was is Reserve Coal Properties

10 purchased 633.763 of that heirship. So, you know, we're

11 getting the person that bought resolved. But the rest of the

12 remaining heirs that didn't sell are still in conflict with

13 James McGuire.

14           MARK SWARTZ: Okay. I understand why you're asking

15 the question. Let me give you a little different answer.

16           ANITA TESTER: Okay.

17           MARK SWARTZ: The McGuire...the Hurt McGuire Trust

18 is still in conflict with regard to the funds that are left

19 on deposit in Tract 1A with regard to the folks that are

20 listed under oil and gas fee ownership, okay, and not with

21 regard to Reserve Coal. Reserve Coal is just a heading

22 there. That doesn't mean anything. But if you look at B, C,

23 D, E, F, if you added up those miniscule percentages, okay,

24

1 that's the percent that's still in the account in conflict  
2 and it's not 7.08%. It is a confusing way to present this.  
3 But we're trying to show people claiming under an interest.  
4 So, if your question is, are we trying to show James M.  
5 McGuire and Reserve Coal remaining in conflict, no. What  
6 we're trying to show by Exhibit E is that the James McGuire  
7 Trust is...remains in conflict with the people listed here  
8 and their percentage of interest which, you know, is way less  
9 than the 7.08%. Does that help?

10 DONALD RATLIFF: Yes.

11 MARK SWARTZ: Okay.

12 MASON BRENT: Any other questions from the Board?

13 (No audible response.)

14 MASON BRENT: Do we have a motion?

15 DONALD RATLIFF: Mr. Chairman, I'd move for item  
16 ten of the agenda to be approved as presented.

17 MASON BRENT: I have a motion for approval. Is  
18 there a second?

19 BILL HARRIS: Second.

20 MASON BRENT: We have a second. Any further  
21 discussion?

22

23 MASON BRENT: All in favor of approval, signify by

24

--

1 saying yes.

2 (All members signify by saying yes.)

3 MASON BRENT: Opposed?

4 (No audible response.)

5 MASON BRENT: You have approval. The item on our  
6 agenda the Board, on its own motion, will consider the  
7 disbursement of funds tendered to and deposited in the escrow  
8 account after entry and execution of disbursement order for  
9 Tracts 2 and 5, coalbed methane unit P-46 in Buchanan County,  
10 Virginia. It's docket item VGOB-99-05/18-0722-01. I believe  
11 Mr. Wilson would like to address the Board in this matter.

12 BOB WILSON: Yes, sir. In...on October the 31st of  
13 2001, an order was executed which called for the disbursement  
14 of funds...all funds actually deposited in escrow under  
15 docket number 99-05/18-0722. The disbursement, as I said,  
16 was approved. There were two tracts involved. Tract 5, the  
17 monies there were to be returned to Pocahontas Gas  
18 Partnership. It was determined that they had been  
19 erroneously depositing into the account. Tract 2, was to be  
20 divided 50/50 between Reserve Coal Properties and Ronald  
21 Clyborne. The disbursement did take place as ordered;  
22 however, for reason not totally known, monies were  
23 subsequently tendered and deposited into that account, which  
24

1 should have been closed after the disbursement. Sometimes we  
2 get a little overlap in the occurrences there and this is one  
3 time we got caught on it, somehow or another.

4           What the Board needs to consider is authorization  
5 of disbursement of those funds that have been tendered since  
6 this Board order was executed under the same terms as the  
7 original order such that we can insure balance of that  
8 account with the operator and allow that money to be  
9 disbursed according to these percentages presented in the  
10 Board...the order that was executed on October the 31st of  
11 2001. We will need to issue another order for...to  
12 facilitate that. We've schooled the agent thoroughly in the  
13 fact that no monies are to be released without a Board order  
14 even if they are there by mistake. So, that would be the  
15 process here. Pretty much administrative, but we do need an  
16 order to effect this.

17           MASON BRENT: The problem has been corrected? The  
18 funds are not going---?

19           BOB WILSON: No. It would need to be corrected  
20 when---.

21           MASON BRENT: I mean, as the flow of funds there.

22           BOB WILSON: Yes. Yes.

23           MASON BRENT: They're going directly to the  
24

--

1 parties?

2                   BOB WILSON: Yes. The...I checked the account  
3 balance for the accounting in the last two or three months to  
4 spot check and no monies have been going in other than  
5 interest into that account. So, apparently it's being  
6 directly paid properly at this point in time. But there are  
7 still funds that accumulated there from the previous  
8 deposits.

9                   MASON BRENT: Any questions from the Board?  
10                   (Sharon Pigeons confers with Mr. Brent.)

11                   MASON BRENT: Do we...do we know the amount?

12                   BOB WILSON: Uh---.

13                   MASON BRENT: I know that's going to be a moving  
14 target as long as---.

15                   BOB WILSON: Yes. As of October the 30th, the  
16 balance was \$4,861.54.

17                   MASON BRENT: But you still have interest going in  
18 the account?

19                   BOB WILSON: Yes.

20                   MASON BRENT: So, the order should provide for the  
21 balance at the time---?

22                   BOB WILSON: Correct.

23                   MASON BRENT: ---including all interest?

24

1           BOB WILSON: Correct.

2           MASON BRENT: Any other questions?

3           BOB WILSON: Yes. And, again, to reiterate, the  
4 account will be closed. This sub-account will be closed  
5 under this VGOB number.

6           MASON BRENT: Right. Okay, do we have a motion for  
7 approval?

8           DONALD RATLIFF: Mr. Chairman, I move that we  
9 approve item number eleven on the agenda as described by Mr.  
10 Wilson.

11          MASON BRENT: Okay, we have a motion. Do we have a  
12 second?

13          BILL HARRIS: Second.

14          MASON BRENT: Okay. We have a second. Any further  
15 discussion?

16                (No audible response.)

17          MASON BRENT: All in favor, signify by saying yes.  
18                (All members signify by saying yes.)

19          MASON BRENT: Opposed?

20                (No audible response.)

21          MASON BRENT: Okay, Mr. Wilson,---.

22          BOB WILSON: Thank you.

23          MASON BRENT: ---just see that that's done.

24

1           BOB WILSON: Okay. Mr. Chairman, one other,  
2 please, before we get into the pooling presentations here.  
3 Last month, item number six on last month's agenda concerned  
4 unit EE-35 under VGOB docket number 02-08/20-1056. That item  
5 was initially tabled by the Board because of concerns and  
6 association with some units to be considered later on on that  
7 docket. During the hearing of the other items, it was  
8 combined with three others and...or was actually considered  
9 with three others. This particular item was carried forward  
10 by a one sentence mentioned. Somehow or another, I missed  
11 that during the presentation last time. So, it was not  
12 carried forward onto this month's agenda.

13           The reason it was carried forward was to cure a  
14 notice problem that was apparent during the presentation.  
15 It's my understanding that that actually wasn't a problem. I  
16 will let Mr. Arrington explain in just a minute here. We  
17 need to, I think, go back and handle this particular item and  
18 complete it. We can do so without any consequences. We've  
19 gone back and checked our law and everything. The fact that  
20 this was advertised and everybody was noticed on the first  
21 hearing, then we no longer...we're not obligated to future  
22 notice on that. So, the fact that it didn't appear on the  
23 agenda in this case is not an impediment to taking care of

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1 this.

2           Again, the reason it was carried forward was that  
3 one individual apparently had not received notice. Would you  
4 folks like to address that?

5           LESLIE K. ARRINGTON: Yes. There was a Benny Boyd  
6 that didn't appear. We had sent him notice in another unit.  
7 He had received notice or was not even in that one. What  
8 had transpired there, he had gotten on our Exhibit B-3, or  
9 not on our B-3, or whatever, and shouldn't have been. He was  
10 a leased party. He wasn't entitled to notice. It shouldn't  
11 have gotten notice. So, you know, the party was leased and  
12 wasn't subject to the pooling application.

13           MASON BRENT: Was this the person that was brought  
14 to our attention by Mr. Campbell?

15           LESLIE K. ARRINGTON: Yes.

16           MARK SWARTZ: And we couldn't figure out why he was  
17 on one list and not on the other. We subsequently determined  
18 it was because we leased him. We didn't need to pool him.  
19 So, that's the explanation.

20           LESLIE K. ARRINGTON: I'll have to say that as we  
21 were sitting there, Anita and I looking at one another, Anita  
22 said, "There's something bothering me about this." But we  
23 couldn't...at that very second, we couldn't put our finger on

24

--

1 it. The minute we walked out that door, Anita said, "I think  
2 that party is leased." Well, you know, there's sometimes...  
3 we can't bring everything with us.

4 MASON BRENT: You blew your moment of glory.

5 (Laugh.)

6 LESLIE K. ARRINGTON: Yeah. So, the party was  
7 leased at that time.

8 MARK SWARTZ: So, essentially it was continued to  
9 give notice to someone we determined was not entitled to  
10 notice. But, I mean, to complete the record here, Mr. Wilson  
11 is right. I mean, we need to...we need to tell you that.

12 BOB WILSON: And the pooling application has not  
13 been addressed. The pooling was not approved.

14 MARK SWARTZ: But the evidence is all in. That was  
15 EE-35, I think.

16 BOB WILSON: EE-35, yes.

17 MARK SWARTZ: Right.

18 MASON BRENT: So, that was just an informational  
19 insert or do we---?

20 MARK SWARTZ: Well, it was continued for us to do  
21 that. So, I guess we...I'm not sure that was informational.

22 BOB WILSON: No. No, that...the point is that it  
23 needs to be handled. In other words, that pooling needs to

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1 be considered by the Board or continued to be considered by  
2 the Board. The fact that it was not on the agenda again,  
3 there's no legal impediment to doing that because notices  
4 have all been given. According to what they're telling us,  
5 there was no underlying...the underlying reason for the  
6 continuation was not valid. We do have the transcript from  
7 last month here if anybody needs to review that. I think  
8 most everybody was here for last month's.

9           SHARON PIGEON: I have my documents if we need to  
10 pass those around.

11           MASON BRENT: Let me ask the Board, do you have  
12 confidence in your recollection to vote on this matter?  
13 Would you like your recollection refreshed? I recall...I  
14 recall the matter myself and as I recall, the only thing  
15 holding it up was that (inaudible) question.

16           KEN MITCHELL: Mr. Chairman, I personally don't  
17 have any problem with adding it to the agenda. I would  
18 request that we add it to the agenda under a formal motion  
19 and that would document that was added today at this time.  
20 And like Bob said, I don't feel there's a conflict because if  
21 people were notified previously, they should have either been  
22 here and been aware of what was going on and saw that it was  
23 continued and then would naturally be here today or the

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1 following meeting. But I think...I have no problem with  
2 adding it to the agenda with a formal motion from the Board  
3 to add it to the agenda.

4 MASON BRENT: Okay. Do you have the docket number  
5 from the last time and I will read the docket number?

6 (Bill Harris hands a copy of last month's agenda.)

7 MASON BRENT: Is this from last month?

8 BILL HARRIS: Yes, it is.

9 MASON BRENT: All right. For the purposes of  
10 taking care of that last business, we will go ahead and open  
11 that docket item from last month; docket number VGOB-02-  
12 08/20-1056. We will incorporate all of the testimony that  
13 we've heard here this morning for that. I will ask for a  
14 motion to approve that docket number as presented at our last  
15 meeting and the subsequent follow-up testimony here today.

16 BILL HARRIS: Mr. Chairman, I move for approval of  
17 that docket item.

18 DONALD RATLIFF: Second.

19 MASON BRENT: We have a motion and a second. Any  
20 further discussion?

21 (No audible response.)

22 MASON BRENT: All in favor of approval, signify by  
23 saying yes.

24

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1 (All members signify by saying yes.)

2 MASON BRENT: Opposed, no.

3 (No audible response.)

4 MASON BRENT: Okay, approved. Any other surprises  
5 on the agenda this morning? Do we want to slip it in?

6 BOB WILSON: I hope not.

7 (Laugh.)

8 MASON BRENT: Okay, the next item on our agenda,  
9 the Board will consider a petition from Buchanan Production  
10 Company for pooling of a coalbed methane unit AW-94 in  
11 Buchanan County, Virginia. This is docket number VGOB-02-  
12 11/19-1089. We'll ask all parties that are interested in  
13 addressing the Board on this matter to come forward at this  
14 time.

15 MARK SWARTZ: Mark Swartz and Les Arrington.

16 MASON BRENT: There being no others, you may  
17 proceed.

18

19 LESLIE K. ARRINGTON

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. Les, I'm going to just remind you you're  
23 still under oath, okay.

24

--

1 A. Okay.

2 Q. Who's the applicant here?

3 A. Consol Energy, I'm sorry.

4 Q. Well, it looks like Buchanan Production?

5 A. Yeah.

6 Q. Okay.

7 A. It's Buchanan Production Company. The

8 operator is Consol Energy.

9 Q. Okay. In this...in this particular

10 instance, we have...since the original filing for this

11 pooling application, you filed an amended notice of hearing,

12 correct?

13 A. Yes, we have.

14 Q. And so the Board should refer to that in

15 terms of the parties, right?

16 A. Yes.

17 Q. Okay. This AW-94, is it a Middle Ridge

18 unit?

19 A. Yes, it is.

20 Q. Okay. And it has 58.76 acres?

21 A. Yes, it is...yes, it does.

22 Q. And are you proposing a frac well for this

23 unit?

24

1           A.       Yes, we are.

2           Q.       And the plat shows that the well location is  
3 actually within the drilling window, is that correct?

4           A.       Yes, it does.

5           Q.       Okay. Has this well been drilled?

6           A.       Yes, it has. It was drilled May the 2nd of  
7 2002.

8           Q.       Permit number?

9           A.       5253.

10          Q.       And the depth?

11          A.       2352.560 feet at a cost of approximately  
12 \$200,448.49.

13          Q.       Have you listed in the amended notice of  
14 hearing and the Exhibit B-3 the names of all of the folks  
15 that you're seeking to pool?

16          A.       Yes, we have.

17          Q.       Okay, and what did you do to notify them of  
18 today's hearing?

19          A.       We published it in the Bluefield Daily  
20 Telegraph on October the 29th of 2002. It was mailed by  
21 certified mail/return receipt on October the 18th of 2002.

22          Q.       Have you filed the proof of publication and  
23 the documentation with regard to mailing with the Board?  
24

1           A.       Yes, we have.

2           Q.       If we look at Exhibit B-3 in the amended  
3 packet, it looks like you have addresses for everyone.

4           A.       Yes, we did.

5           Q.       And it also looks like Equitable Resources  
6 has some of these folks leased?

7           A.       Yes, they do.

8           Q.       And would it be your request to the Board  
9 that it be noted in the Board's order if this pooling  
10 application is approved, that Equitable would be afforded its  
11 election rights as a CBM lessee in this unit?

12          A.       Yes, it is.

13          Q.       Do you wish to add anyone as a respondent  
14 today?

15          A.       No.

16          Q.       Do you wish to dismiss anyone as a  
17 respondent?

18          A.       No.

19          Q.       Who are the...who are the partners in  
20 Buchanan Production Company?

21          A.       Consolidation Coal Company and Consol  
22 Energy, Inc.

23          Q.       Who are you requesting be the operator if  
24



1 the Board approves this application?

2 A. Consol Energy.

3 Q. Does Consol Energy have a blanket bond on  
4 file with the Commonwealth?

5 A. Yes, it does.

6 Q. Has it registered with the Department of  
7 Mines, Minerals and Energy?

8 A. Yes, it has.

9 Q. Okay. And Consol Energy, Inc. is a  
10 corporation, correct?

11 A. Yes.

12 Q. And is it a Delaware Corporation?

13 A. Yes, it is.

14 Q. With regard to the standing in this unit, if  
15 we look at Exhibit A, page two, could you tell the Board what  
16 interest the operator has acquired and what interest you're  
17 seeking to pool?

18 A. Yes. We've acquired 73.1516% of the coal,  
19 oil and gas, coalbed methane interest. We have 73.1516% of  
20 the coal leased. We're seeking to pool 26.8484% of the coal,  
21 oil and gas, coalbed methane interest.

22 Q. Okay. And have you addressed in your  
23 exhibits the question of whether or not anything needs to be

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1       escrowed because there's a conflict?

2               A.       That's correct. There's an Exhibit E  
3       showing a conflict in Tract 2 and there's no unknowns.

4               Q.       Okay. So, escrow...escrow would be required  
5       because of the conflict with regard to Tract 2 only?

6               A.       That's correct.

7               Q.       Are you...what terms have you offered, in  
8       general, to the folks that you've been able to obtain coalbed  
9       methane leases from in this unit and in the surrounding  
10      units?

11              A.       Our standard coalbed methane lease is a  
12      dollar per acre per year with a five year paid up term and a  
13      one-eighth production royalty after production begins.

14              Q.       And would you recommend those terms to the  
15      Board to be inserted in any order that they might enter?

16              A.       Yes, we would.

17              Q.       Here, is it your intention to produce from  
18      this 58.76 acre unit from the Jawbone, if it's below  
19      drainage, on down?

20              A.       Yes...yes, that's correct.

21              Q.       And the production method would be by one  
22      frac well?

23              A.       Yes.

24

--

1           Q.       Is it your opinion that the development plan  
2 that's disclosed by the application with related exhibits is  
3 a reasonable plan to develop the coalbed methane within and  
4 under this unit?

5           A.       Yes, it is.

6           Q.       And is it your opinion that between the  
7 leases that you have obtained from claimants and owners and  
8 the pooling that you're proposing, that the interest and  
9 claims of all persons having correlative rights would be  
10 protected?

11          A.       Yes, they are.

12          MARK SWARTZ: I believe that's all I have, Mr.  
13 Chairman.

14          MASON BRENT: Any questions from the Board?

15          KEN MITCHELL: Mr. Chairman. Just a clar---.

16          MASON BRENT: Mr. Mitchell.

17          KEN MITCHELL: Just a clarification potentially,  
18 under Exhibit A...under Exhibit A, which is a physical  
19 drawing, it shows a 58.76 acre unit.

20          LESLIE K. ARRINGTON: Yes, sir.

21          KEN MITCHELL: On the next item when it identifies  
22 it under the holders of the property, it identifies 58.7  
23 acres. There's a .06 difference in land acreage.

24

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1           LESLIE K. ARRINGTON: It was more than likely  
2 calculated on the 58.7. I'm sorry. That's correct. I can  
3 tell you real quickly which one it was calculated on.  
4           KEN MITCHELL: So, the .06 doesn't exist? Is that  
5 what you're telling me?  
6           LESLIE K. ARRINGTON: Just a second.  
7           (Leslie K. Arrington figures it out.)  
8           LESLIE K. ARRINGTON: Yes, it was calculated on the  
9 58.70. So, we probably made an error on the plat.  
10          KEN MITCHELL: Okay.  
11          LESLIE K. ARRINGTON: Instead of .76 it should have  
12 been a .70.  
13          KEN MITCHELL: Okay.  
14          LESLIE K. ARRINGTON: I see what you mean. We  
15 probably should---.  
16          KEN MITCHELL: I was just concerned that  
17 the...well, in your explanation, I'm concerned that the---.  
18          LESLIE K. ARRINGTON: We'll correct the plat.  
19          KEN MITCHELL: ---man that certified the plat---.  
20          LESLIE K. ARRINGTON: Yes, we'll correct the plat.  
21          KEN MITCHELL: Okay.  
22          MASON BRENT: Any other questions from the Board?  
23          (No audible response.)  
24

1           MASON BRENT: You have nothing further, Mr. Swartz.  
2           MARK SWARTZ: Nothing further.  
3           DONALD RATLIFF: Mr. Chairman, I move that we  
4 approve item twelve on the agenda with the correction on the  
5 plat.  
6           KEN MITCHELL: I second the motion.  
7           MASON BRENT: All right. Any further discussion?  
8           (No audible response.)  
9           MASON BRENT: All in favor, signify by saying yes.  
10           (All members signify by saying yes.)  
11           MASON BRENT: Opposed?  
12           (No audible response.)  
13           MASON BRENT: You have approval. The next item on  
14 our agenda the Board will consider a petition from Buchanan  
15 Production Company for pooling of a coalbed methane unit D-39  
16 in Buchanan County, Virginia. This is docket item VGOB-02-  
17 11/19-1090. We'll ask all parties who would like to address  
18 the Board on this matter to come forward at this time.  
19           MARK SWARTZ: Mark Swartz and Les Arrington.  
20           MASON BRENT: There being no others, you may  
21 proceed, Mr. Swartz.  
22           MARK SWARTZ: I would like to ask the Board to  
23 consider combining this with K-37, which is another Oakwood  
24

1 unit for hearing, which is docket item number sixteen.

2           MASON BRENT: Sixteen. Any objection from the  
3 Board to combining items number thirteen and sixteen?

4           (No audible response.)

5           MASON BRENT: Hearing no objections I'll call the  
6 other item. In addition, the Board will hear a petition from  
7 Buchanan Production Company for pooling of a coalbed methane  
8 unit K-37 in Buchanan County, Virginia. This is docket item  
9 VGOB-02-11/19-1093.

10          MARK SWARTZ: It will be Mark Swartz and Les  
11 Arrington, again, on that one.

12          MASON BRENT: And there being no other parties, you  
13 may proceed.

14          MARK SWARTZ: Just a housekeeping matter for the  
15 Board, you've just received some further exhibits. The only  
16 revised or amended exhibit pertains to the application with  
17 regard to D-39 and the plat that we submitted with the  
18 application did not show the well location. So, the...the  
19 revised...there is a revised plat in the exhibits that you  
20 received this morning, which shows the well location for D-39  
21 and the drilling window and so forth so that you can see  
22 where that is. But other than that the exhibits submitted  
23 with the original applications in both of these instances

24

--

1 have not changed.

2

3

LESLIE K. ARRINGTON

4

DIRECT EXAMINATION

5 QUESTIONS BY MR. SWARTZ:

6 Q. Les, with regard to these two units, again,  
7 we've got Buchanan Production Company as the applicant,  
8 right?

9 A. That's correct.

10 Q. And Buchanan Production Company is a  
11 Virginia General Partnership?

12 A. Yes, it is.

13 Q. And it has two partners who, if I remember  
14 right, are Consol Energy, Inc. and CNX Gas, L.L.C. or has  
15 that changed again?

16 A. No, in Buchanan Production Company. Just  
17 these two.

18 Q. Okay.

19 A. Yes.

20 Q. All right. So, those would be the two  
21 partners?

22 A. Yes.

23 Q. Who...is Buchanan Production Company  
24

--

1 authorized to do business in Virginia?

2 A. Yes, it is.

3 Q. Who are you asking be the designated  
4 operator?

5 A. Consol Energy.

6 Q. And that's a corporation?

7 A. Yes, it is.

8 Q. And Consol Energy is a Delaware Corporation?

9 A. Yes, it is.

10 Q. Is it authorized to do business in the  
11 Commonwealth?

12 A. Yes, it is.

13 Q. Has it registered with the Department of  
14 Mines, Minerals and Energy and does it have a blanket bond on  
15 file?

16 A. Yes, it does.

17 Q. Some considerable time ago, the management  
18 committee of Buchanan Production Company delegated the  
19 authority to develop its properties, is that correct?

20 A. It did.

21 Q. And is Consol Energy, Inc. currently the  
22 person or company delegate to manage those properties?

23 A. Yes, it is.

24



1                   Q.       Who are the folks that you're seeking to  
2 pool?

3                   A.       The parties listed on Exhibit B-3.

4                   Q.       Okay. And also in the notice, right?

5                   A.       Yes, it is.

6                   Q.       Do you want to add any parties today?

7                   A.       No.

8                   Q.       Do you want to dismiss any?

9                   A.       No.

10                  Q.       What did you do to notify the respondents of  
11 the hearing today?

12                  A.       Unit D-39 was published in the Bluefield  
13 Daily Telegraph on October the 28th of 2002 and it was mailed  
14 by certified mail/return receipt requested on October the  
15 18th of 2002. K-37 was published in the Bluefield Daily  
16 Telegraph on October the 26th of 2002. It was mailed October  
17 the 18th of 2002.

18                  Q.       Okay. When you mailed, what did you mail?

19                  A.       We...we mailed the notice of hearing, the  
20 application and attached exhibits.

21                  Q.       And when you published, what did you  
22 publish?

23                  A.       The notice of hearing and location exhibit.

24

1           Q.       Have you filed proof publication and  
2 information regarding the mailings with the Board today?  
3           A.       Yes, we have.  
4           Q.       Are both of these units Oakwood I 80 acre  
5 units?  
6           A.       Yes, they are.  
7           Q.       And is the idea that they would be produced  
8 by a frac well in a drilling window from the Tiller on down?  
9           A.       Yes, it is.  
10          Q.       With regard to...let's start with D-39. If  
11 you could turn to Exhibit A, page two, Les, tell the Board  
12 what...what interest that the operator has been able to  
13 obtain and what interests need to be pooled.  
14          A.       Yes. Unit D-39---.  
15          Q.       Yes.  
16          A.       ---was...we have 75.35% of the coal, oil and  
17 gas, coalbed methane interest leased. We're seeking to pool  
18 22.65...I believe that's going to be a wrong number.  
19          Q.       24.65.  
20          A.       Yeah, it should 24. So, we'll need to  
21 correct that Exhibit A, page two.  
22          Q.       And after correction, it will show that you  
23 need to pool...the claimants or owners of 24.65% of both the  
24

1 oil and gas and coal?

2 A. That's correct.

3 Q. If you look at the next exhibit, B-3, it's

4 apparent from that you, I gather, have addresses for

5 everybody?

6 A. We did have.

7 Q. Okay. And it also looks like there is an

8 oil and gas and CBM lease in favor of Virginia Gas

9 Exploration?

10 A. That's correct.

11 Q. And the Board's order should indicate that

12 to the extent Virginia Gas Exploration or its successor has

13 a...has an interest in this unit, they should be afforded

14 election options?

15 A. That's correct, and it will be successor.

16 Q. The...looking at further at the exhibits, it

17 appears that there are no conflicts. So, there's no

18 requirement for escrow?

19 A. That's correct, no conflict and no unknowns.

20 Q. Correct. The well here, has it been

21 drilled?

22 A. Yes, it has.

23 Q. When was drilled?

24

1           A.       It was drilled October the 2nd of 2002,  
2 permit number 5520. It was drilled to a total depth of 1765  
3 feet at a cost of \$206,457...\$206,457.99.

4           SHARON PIGEON: What was that date on the drilling?

5           A.       October the 2nd of 2002.

6           SHARON PIGEON: Thank you.

7           Q.       With regard to folks that you've been able  
8 to lease in this unit and the surrounding units, what are the  
9 typical terms that you've offered?

10          A.       Our typical coalbed methane lease is a  
11 dollar per acre per year rental with a five year paid up term  
12 and a one-eighth production royalty bonus.

13          Q.       And are you requesting that the Board  
14 include those terms in any order it might enter with regard  
15 to folks who are deemed to have been leased?

16          A.       Yes, we are.

17          Q.       Is it your opinion that the plan to develop  
18 the coalbed methane resource within units D-39 and K-37 is a  
19 reasonable plan?

20          A.       Yes, it is.

21          Q.       And is it your opinion that in the event the  
22 Board were to pool units D-39 and K-37, that the pooling  
23 order and the leases you've obtain all owners or claimants of  
24

1 coalbed methane within both of those units would have their  
2 rights protected?

3 A. They...it would be protected, yes.

4 Q. Let's turn to unit...well, before we turn to  
5 unit K-37, let's look at the plat regarding D-39, okay.  
6 Let's look at the revised plat. You'll see that there is...  
7 up in the very north portion of that---.

8 A. Yes.

9 Q. ---unit, there's an Edwards and Harden well.

10 A. Yes, it is.

11 Q. Is that a conventional gas well?

12 A. Yes, it is.

13 Q. Okay. So, it is...it would be draining  
14 formations completely different than the D-39 well?

15 A. Yes, it is substantially deeper.

16 Q. Okay. Okay, now turning to K-37, let's  
17 start with A, page two. All right. Tell the Board where we  
18 are in terms of acquired rights and outstanding rights.

19 A. Yes. We have 62.0657% of the coal owners'  
20 claim to the coalbed methane interest leased. We have  
21 59.98194% of the oil and gas owners' claim to coalbed methane  
22 leased. We're seeking to pool 37.93473% of the coal owners'  
23 claim to coalbed methane and 40.01806% of the oil and gas

24

--

1 owners' claim to coalbed methane.

2 Q. As we look at Exhibit B-3, it appears to me  
3 that you have names and addresses for everybody. So, we  
4 don't need an escrow for unknowns or unlocateables, is that  
5 true?

6 A. That's correct.

7 Q. Okay. It also appears that Virginia Gas as  
8 in D-39, or its successor in interest that needs to be  
9 afforded an election right in this unit, correct?

10 A. That's correct.

11 Q. Okay. And are you requesting that any Board  
12 order so provide?

13 A. Yes.

14 Q. With regard to escrow for conflicting  
15 claims, there is a Exhibit E. Does that show conflicting  
16 claims and a requirement for escrow pertaining to Tract 2?

17 A. Yes, it does.

18 MARK SWARTZ: That's all I have, Mr. Chairman.

19 MASON BRENT: I notice on the plat that Cabot Oil  
20 has a well...I notice on the plat Cabot Oil has a well down  
21 in the lower right hand side. This is a---?

22 LESLIE K. ARRINGTON: Conventional well.

23 MASON BRENT: Conventional deep well. Any

24

--

1 questions from the Board?

2 (No audible response.)

3 MASON BRENT: Do I have a motion on these two  
4 items?

5 DONALD RATLIFF: Mr. Chairman, I move that agenda  
6 item thirteen concerning unit D-39 and agenda item sixteen  
7 concerning unit K-37 be approved as presented.

8 MASON BRENT: Okay, we have a motion. Do we have a  
9 second.

10 BILL HARRIS: Second.

11 MASON BRENT: We have a second. Any further  
12 discussion?

13 (No audible response.)

14 MASON BRENT: All in favor of the motion, signify  
15 by saying yes.

16 (All members signify by saying yes.)

17 MASON BRENT: Opposed?

18 (No audible response.)

19 MASON BRENT: You have approval, Mr. Swartz.

20 MARK SWARTZ: Thank you.

21 MASON BRENT: The next item on the agenda, the  
22 Board will consider a petition from Buchanan Production  
23 Company for pooling of coalbed methane unit FF-10, Buchanan  
24

1 County, Virginia, docket item VGOB-02-11/19-1091. I'd ask  
2 all parties who would like to address the Board in this  
3 matter to come forward at this time.

4 MARK SWARTZ: Mark Swartz and Les Arrington. And  
5 I'd ask that you combine this with FF-11, if you would. And  
6 I would ask Mr. Kiser if he would stipulate that we could  
7 just enter a standard order on these two rather than having  
8 hearings. Do you want to think about that for a minute, Jim?

9 JIM KISER: I don't know anything about it.

10 MARK SWARTZ: Okay. Well, let me show you. Well,  
11 then I guess I won't tell him he's in these units.

12 JIM KISER: We might need to have a recess.

13 MASON BRENT: I would call for a recess, but I know  
14 how hard it is to get the Board members back.

15 (Mark Swartz and Jim Kiser confer.)

16 MASON BRENT: Does the Board have any objection to  
17 combining docket items fourteen and fifteen?

18 (No audible response.)

19 (Mark Swartz and Jim Kiser confer.)

20 MARK SWARTZ: I think that we have an agreement.  
21 Mr. Kiser---.

22 MASON BRENT: Come up here to the mike.

23 MARK SWARTZ: Mr. Kiser probably needs to actually  
24



1 say this so that I'm not saying it for him. But I think we  
2 have an agreement with regard to FF-10 and FF-11.  
3 Equitable---.

4 MASON BRENT: Let, if I may, interrupt you. Let me  
5 call---.

6 MARK SWARTZ: Okay.

7 MASON BRENT: ---the other one. The Board has  
8 agreed to hear boh of them at the same time.

9 MARK SWARTZ: Great. Great.

10 MASON BRENT: So, let me call the other one. If  
11 Mr. Kiser needs to address the Board, he may. Okay, in  
12 addition to hearing FF-10, the Board will also consider a  
13 petition from Buchanan Production Company for pooling of a  
14 coalbed methane unit FF-11 in Buchanan County. This is  
15 docket item VGOB-02-11/19-1092. I would ask all parties that  
16 would like to address the Board in this matter to come  
17 forward at this time.

18 MARK SWARTZ: Mark Swartz and Les Arrington.

19 JIM KISER: Jim Kiser on behalf of Equitable  
20 Production Company. Okay, we previously---.

21 MASON BRENT: For the record, there are no other  
22 parties here for either item.

23 MARK SWARTZ: Mr. Kiser and I have discussed these  
24

1 matters. He is counsel for Equitable Resources. The only  
2 folks being pooled in both of these units are Equitable and  
3 their lessors. I think we've reached an agreement that the  
4 Board could, if it chose, enter a standard order, you know,  
5 that we customarily see with regard to these two units that  
6 obviously would afford Equitable the participation or  
7 election rights with regard to both of these units. I think  
8 Jim's in agreement.

9           JIM KISER: Yeah, we're in agreement with that. As  
10 far as I know, my client has directed me that that's okay.  
11 We've got 31% under a CBM lease in the one unit, I guess FF-  
12 10. FF-11 about a 13% interest. So, a standard order, which  
13 would provide Equitable with their statutory elections would  
14 be okay with us. And those both have already been drilled?

15           MARK SWARTZ: Right. Both of these wells, if  
16 you'll notice from the Exhibit regarding the wells, Sharon,  
17 that both of the wells have been drilled. They have permits  
18 and so forth and that information is in there. Thanks, Jim.  
19 That's it.

20           MARK SWARTZ: Nothing else?

21           (No audible response.)

22           MASON BRENT: Do I have a motion for approval of  
23 these two items?

24

--

1           KEN MITCHELL: Mr. Chairman, could I ask a question  
2 before we---?

3           MASON BRENT: Yes you may, Mr. Mitchell.

4           KEN MITCHELL: Let me refer back to item number  
5 fifteen, I believe, which is FF-11.

6           MARK SWARTZ: Okay.

7           KEN MITCHELL: And let me go to the third...I  
8 apologize, the fourth document, which again is the engineer's  
9 description, which shows 89.40 acres in the unit.

10          MARK SWARTZ: Uh-huh.

11          KEN MITCHELL: When I go to the very next item  
12 under the tract identification...I apologize. Let me skip  
13 over a couple more. Exhibit B-3...Exhibit B-3 under FF-11  
14 shows 89.41. There's a difference of .01 acres. I realize  
15 it's a small acreage but it's still a legal description. And  
16 under the...and on the tract identification, it does show  
17 89.4.

18          LESLIE K. ARRINGTON: It was calculated under...by  
19 the 89.41 and we'll correct those plats.

20          KEN MITCHELL: Okay. And I did...I did...I did  
21 notice one...this just may have been his day to do it, but  
22 all of the certification were done, I believe...all the ones  
23 I've seen were all done, I think, on 10/17. That may have  
24

1 been his day to do your work or whatever, but I don't know if  
2 he was trying to rush through them or whatever. But---.

3 LESLIE K. ARRINGTON: No, we do them all.

4 KEN MITCHELL: Okay.

5 MASON BRENT: Any other questions from the Board?  
6 (No audible response.)

7 DONALD RATLIFF: Mr. Chairman, I move that we  
8 approve agenda item fourteen starting with FF-10 and agenda  
9 item fifteen concerning FF-11 as presented.

10 MASON BRENT: We have a motion for approval. Do I  
11 have a second?

12 BILL HARRIS: Second.

13 MASON BRENT: We have a second. Any further  
14 discussion?

15 (No audible response.)

16 MASON BRENT: All those in favor of the motion,  
17 signify by saying yes.

18 (All members signify by saying yes.)

19 MASON BRENT: Opposed?  
20 (No audible response.)

21 MASON BRENT: You have approval on those two items.  
22 The next item on the agenda, the Board will consider a  
23 petition from Pocahontas Gas Partnership for pooling of a  
24

1 coalbed methane unit BB-116 in Russell County, Virginia.  
2 This is docket item VGOB-02-11/19-1094. We'd ask all parties  
3 who would like to address the Board in this matter to come  
4 forward at this time.

5 MARK SWARTZ: Mark Swartz and Les Arrington.

6 MASON BRENT: There being no others, you may  
7 proceed.

8 MARK SWARTZ: I would also ask that the Board  
9 consider hearing the next item, BB-118, at the same time.  
10 These are both Middle Ridge units.

11 MASON BRENT: Any objection from the Board to  
12 hearing items eighteen and seventeen?

13 (No audible response.)

14 MASON BRENT: Okay. I'll call the next item then.  
15 The Board will also hear a petition from Consol Energy, Inc.  
16 for pooling of a coalbed methane unit BB-118 in Russell  
17 County, Virginia. This is docket item VGOB-02-11/19-1096.  
18 We'd ask all parties who would like to address the Board in  
19 this matter to come forward at this time.

20 MARK SWARTZ: Mark Swartz and Les Arrington.

21 MASON BRENT: Being no others, you may proceed.

22

23 LESLIE K. ARRINGTON

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DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, are both of these units Middle Ridge units?

A. Yes, they are.

Q. And do they each have 58.74 acres in them?

A. Yes, they do.

Q. And do they contemplate that one frac well would be drilled in each unit?

A. Yes.

Q. And are both of the well locations inside the drilling windows?

A. Yes, they are.

Q. Okay. In BB-116, Pocahontas Gas Partnership is the applicant, correct?

A. Yes.

Q. And in BB-118, Consol Energy, Inc. is the applicant, is that correct?

A. That's correct.

Q. Pocahontas Gas Partnership is a Virginia General Partnership, isn't that correct?

A. Yes, it is.

Q. And the two partners in Pocahontas Gas

1 Partnership are Consolidation Coal Company and Consol Energy,  
2 Inc., is that correct?

3 A. Yes, it is.

4 Q. Okay. And who are you asking be appointed  
5 the designated operator in BB-116?

6 A. Pocahontas Gas Partnership.

7 Q. Okay. Consolidation...Consol Energy, Inc.  
8 is a Delaware corporation, correct?

9 A. Yes, it is.

10 Q. Are both Pocahontas Gas Partnership and  
11 Consol Energy, Inc. authorized to do business in the  
12 Commonwealth?

13 A. Yes, it is.

14 Q. Do both of those organizations have blanket  
15 bonds on file?

16 A. Yes, they do.

17 Q. Are both of those organizations registered  
18 with the Department of Mines, Minerals and Energy?

19 A. Yes, it is.

20 MASON BRENT: If I may, are you authorized to  
21 testify for both---?

22 LESLIE K. ARRINGTON: Yes.

23 MASON BRENT: Entities?  
24

1                    LESLIE K. ARRINGTON: Yes.

2                    Q.        The respondents are indicated...the folks  
3 that you're seeking to pool, are indicated on the notice of  
4 hearing and again on Exhibit B-3 for each of these units, is  
5 that correct?

6                    A.        Yes, they are.

7                    Q.        Okay. And do you want to add any additional  
8 folks as respondents today?

9                    A.        No, we do not.

10                   Q.        Do you want to dismiss any of these people  
11 as respondents?

12                   A.        No.

13                   Q.        With regard to BB-116---.

14                   A.        Yes.

15                   Q.        ---if you would turn to Exhibit A, page two,  
16 and summarize for the Board where you stand on leasing here.

17                   A.        Yes. On BB-116, we have 100% of the coal  
18 owners claim to coalbed methane leased. We have 98.1614% of  
19 the oil and gas owners claim to coalbed methane leased.  
20 We're seeking to pool 1.8386% of the oil and gas owners claim  
21 to coalbed methane.

22                   Q.        And you're just seeking to pool the  
23 respondent Paul Chapman, correct?

24

--



1           A.       Yes.

2           Q.       Has this well been drilled?

3           A.       Yes, it has.

4           Q.       And what's the permit number and drilling  
5 date and so forth?

6           A.       The permit number is 5056. It was drilled  
7 on October the 15th of 2001 to a total depth of 2,647.80 feet  
8 at a cost of \$236,699.05.

9           Q.       Is an escrow required here because of a  
10 conflict?

11          A.       Yes, it is.

12          Q.       And that's shown by Exhibit E and it  
13 pertains to Tract 2C, correct?

14          A.       That's correct.

15          Q.       And do some of the folks in this unit or  
16 have some of the folks in this unit whose claims are in  
17 conflict entered into split agreements?

18          A.       Yes, they are and they're shown on Exhibit  
19 EE.

20          Q.       Okay. With regard to those folks, are you  
21 requesting authority for the operator in BB-116, namely  
22 Pocahontas Gas Partnership, authority for Pocahontas Gas to  
23 pay those folks directly?

24

1           A.       Yes, we are.

2           Q.       With regard to...now turning to BB-118, if  
3 you would again turn to Exhibit A, page two.

4           A.       Yes.

5           Q.       And tell the Board where we are with regard  
6 to leasing or acquisition of the ownership.

7           A.       Yes. We have 94.265% of the coal, oil and  
8 gas owners claim to coalbed methane leased. We're seeking to  
9 pool 5.735% of the coal, oil and gas owners claim to coalbed  
10 methane.

11          Q.       Okay, and then if you go to Exhibit B-3---?

12          A.       Yes.

13          Q.       ---we've got an address unknown issue with  
14 regard to these folks, correct?

15          A.       Yes, we do. If you would note the tract  
16 identifications, the tract identifications identified Swords  
17 Creek...I'm not for sure of the name, Swords Creek Land  
18 Partnership or Wayne Bostic and Creola Blake heirs. We have  
19 both the Swords Creek Partnership and the Wayne Bostic  
20 interest leased. So, you know, we traced this back and this  
21 Creola Blake heirs was way back in the early...late 1800s.  
22 We cannot find who this is. We've identified two of three  
23 claims...possible claims there. But we cannot identify them  
24

1 any further.

2 Q. Okay. So, at least with regard to Tract 2,  
3 there needs to be an escrow based upon identification of  
4 potential owners or claimants and their whereabouts, right?

5 A. That's correct.

6 Q. And then there also appears to be a title  
7 issue here?

8 A. Yes, there is in Tract 2.

9 Q. So, there's an escrow requirement because  
10 there's a cloud on the title with regard to these folks in  
11 Tract 2 that are set forth on the...the alternatives are set  
12 forth under Tract 2 on the tract identification's page to  
13 show who might be the potential winners of that battle. Then  
14 with regard to escrow, not concerning, you know, unknowns or  
15 unlocateables, but escrow with regard to potential conflicts,  
16 I take it there's also conflicts here?

17 A. It is. Tract 1B, 2, 4B and 4C as shown on  
18 the Exhibit E.

19 Q. Okay, and then with regard to some of the  
20 folks in this unit, some of them who would otherwise be in  
21 conflict have, in fact, entered into split agreements,  
22 correct?

23 A. That's correct.

24

--

1 Q. And those folks are listed on Exhibit EE?  
2 A. They are.  
3 Q. And with regard to them, we would ask that  
4 the Board order allow the operator, which in this incidents  
5 is Consol Energy, Inc., to pay them directly, is that  
6 correct?  
7 A. That's correct.  
8 Q. Now, both of these units being in the Middle  
9 Ridge Field Rules area would seek, I assume, to produce from  
10 the Jawbone if that's below drainage on down, is that  
11 correct?  
12 A. That's correct.  
13 Q. Okay, and they're both seeking to produce  
14 coalbed methane?  
15 A. Yes.  
16 Q. With regard to the well in BB-118, has that  
17 been drilled?  
18 A. No...I don't believe it has. No.  
19 Q. Okay. Does it have...is there a permit  
20 issued?  
21 A. Yes, it is. Permit 5334 issued April the  
22 29th of 2002, to be drilled to an estimated depth of 2,722  
23 feet at an estimated cost of \$225,746.90.  
24

1           Q.       With regard to the leases that you've been  
2 able to obtain in both of these units and in the surrounding  
3 units, what have been the terms that you've been offering for  
4 coalbed methane?

5           A.       Coalbed methane lease is...our standard  
6 lease is a dollar per acre per year with a five year paid up  
7 term and a one-eighth production royalty.

8           Q.       And are you asking the Board in the event  
9 that it approves these two applications, that those terms be  
10 inserted with regard to folks who might be deemed to have  
11 been leased?

12          A.       Yes, we are.

13          Q.       Is it your opinion that the development plan  
14 as disclosed by these applications and related exhibits to  
15 develop the coalbed methane under these two Middle Ridge  
16 units is a reasonable plan?

17          A.       Yes, it is.

18          Q.       And is it your opinion that if you take the  
19 leases that you've obtained and the effective...any pooling  
20 orders that might be issued, that between the leases and the  
21 pooling orders all folks who have either ownership interest  
22 or claims to coalbed methane in both of these units would  
23 have their correlative rights protected?

24

--

1           A.       Yes, they are.

2           Q.       Obviously, you had some mailing problems  
3 with these folks, right?

4           A.       Yes.

5           Q.       Okay. With regard to BB-116, were you able  
6 to mail at all?

7           A.       Yes. BB-116 was mailed on October the 18th  
8 of 2002 and published in the Bluefield Telegraph October 25  
9 of 2002. And BB-118 was published in the Bluefield Daily  
10 Telegraph on October the 25th of 2002.

11          Q.       But it wasn't mailed because you don't have  
12 addresses, correct?

13          A.       That's correct.

14          Q.       And have you filed proofs of publication and  
15 to the extent that mailing was attempted, mailing with the  
16 Board today?

17          A.       That's correct.

18          MARK SWARTZ: That's all I have, Mr. Chairman.

19          MASON BRENT: Any questions from the Board?

20          KEN MITCHELL: Mr. Chairman, I make a motion for  
21 approval of items seventeen and eighteen.

22          MASON BRENT: Okay, we have a motion for approval.  
23 Do we have a second?

24

1           DONALD RATLIFF:   Second.

2           MASON BRENT:   Any further discussion?

3           (No audible response.)

4           MASON BRENT:   All in favor of the motion, signify

5 by saying yes.

6           (All members signify by saying yes.)

7           MASON BRENT:   Opposed?

8           (No audible response.)

9           MASON BRENT:   Okay, you have approval.

10          MARK SWARTZ:   Thank you all very much.   Have a

11 great Thanksgiving.

12          MASON BRENT:   Thank you.   You to.   Would you all

13 like to take a break or would you like to carry on?

14          (Board confers.)

15          MASON BRENT:   We'll keep on going.

16          JIM KISER:   Our witness went to make a phone call.

17   It might be a good time to take a break.

18          MASON BRENT:   That was poor, poor timing.

19          (Laugh.)

20          JIM KISER:   I don't think he'll be gone long.

21          LESLIE K. ARRINGTON:   Continue it.

22          (Laugh.)

23          MASON BRENT:   Well, let's take a two minute break.

24

1 (Break.)

2 MASON BRENT: Okay, we'll go back on record. Now,  
3 the Board will hear a petition from Penn Virginia Oil and Gas  
4 Corporation for pooling of a conventional gas unit McNeil #1  
5 in Scott County, Virginia. This is docket item VGOB-02-  
6 11/19-1102. We'd ask all parties who would like to address  
7 the Board on this matter to come forward at this time.

8 TIM SCOTT: Tim Scott for Penn Virginia Oil and Gas  
9 Corporation.

10 MASON BRENT: Okay, there be...there being no  
11 others, you may proceed, Mr. Scott.

12 TIM SCOTT: Mr. Chairman, I have...as of yesterday,  
13 we had some modifications to the plat which resulted in  
14 modifications to the Exhibit B, which I'm going to pass out  
15 to the Board members. Mr. Maness is going to testify that  
16 new parties are included. But we've just got some...a little  
17 bit different percentage of ownership. This will take me  
18 just a second. Now, the original Exhibit B that was provided  
19 to the Board had revised on it, which was not revised. It  
20 was the original. But since this is a new one, I called it  
21 second revised.

22 (Mr. Scott hands out the exhibits.)

23 TIM SCOTT: I think these gentlemen need to be  
24



1 sworn.

2 (Witnesses are duly sworn.)

3 TIM SCOTT: One other thing, Mr. Chairman.

4 The...we have provided the Board members with a revised  
5 Exhibit C, the authorization for expenditure as well. We  
6 will have testimony concerning why that figure has changed in  
7 just a moment.

8

9 WAYNE MANESS

10 having been duly sworn, was examined and testified as  
11 follows:

12 DIRECT EXAMINATION

13 QUESTIONS BY MR. SCOTT:

14 Q. Would you state your name, please?

15 A. Wayne Maness.

16 Q. And by whom are you employed?

17 A. Penn Virginia Oil and Gas Corporation.

18 Q. Are you familiar with Penn Virginia's  
19 application in the establishment of a drilling unit?

20 A. I am.

21 Q. Okay. Are there respondents listed as  
22 unleased on Exhibit B that should be dismissed from the  
23 application?

24

--

1                   A.       No.

2                   Q.       Does Penn Virginia own drilling rights in  
3 the unit involved here?

4                   A.       Yes.

5                   Q.       And what percentage does Penn Virginia under  
6 lease?

7                   A.       Leased is 86.21%.

8                   Q.       Are you familiar with other parties who may  
9 have drilling rights in this unit?

10                  A.       No.

11                  Q.       Are those...are the unleased interest  
12 reflected on Exhibit B to the application?

13                  A.       Yes.

14                  Q.       Are there unleased parties whose addresses  
15 are unknown?

16                  A.       No, just unleased.

17                  Q.       Okay. Are the addresses of the unleased  
18 persons set out on Exhibit B?

19                  A.       Yes, they are.

20                  Q.       Mr. Maness, we have provided the Board with  
21 a revised Exhibit B and we've entitled it second revised  
22 Exhibit B. Can you explain to the Board exactly why that was  
23 changed?

24

1           A.       The plat itself, the...one of the unleased  
2 parties involved as...the Leslie Garrett and Michael Corder,  
3 that property line was wrong on that particular plat. When  
4 we corrected it, it increased their percentage of ownership  
5 to 6.69%.

6           Q.       How were the parties listed as respondents  
7 on Exhibit B notified of the hearing?

8           A.       By registered return receipt.

9           Q.       Have photocopies of the return receipt cards  
10 been provided to the Board?

11          A.       Yes.

12          Q.       How else were these parties notified?

13          A.       How else were they notified?

14          Q.       Yes. Was there a publication in the Bristol  
15 Herald Courier?

16          A.       Oh, yes. Yes.

17          Q.       Have these...has this affidavit of  
18 publication been provided to the Board?

19          A.       Yes.

20          Q.       Are you requesting the Board to pool all the  
21 unleased interest listed on Exhibit B?

22          A.       Yeah, I am.

23          Q.       Are you familiar with compensation for oil  
24

1 and gas leases in this area?

2 A. Yes, I am.

3 Q. Can you advise the Board as to what those

4 terms are?

5 A. Five dollars an acre signing bonus, three

6 dollars an acre rentals on three to five year term.

7 Q. Have you had much experience in leasing this

8 area?

9 A. Yes, sir.

10 Q. And how many...how many years have you been

11 involved in leasing?

12 A. Twenty...twenty some odd years.

13 Q. Do these terms represent a reasonable

14 compensation for such terms...I mean, for such leases in the

15 area?

16 A. Yes, for the area.

17 Q. Are you also requesting the Board to grant

18 to the respondents the three election options under Section

19 361.21 of the statute, being participation, a cash bonus or

20 to be carried interest owner?

21 A. A cash bonus and a royalty interest.

22 Q. Okay. Do you recommend that the order

23 provide that if elections by the respondents be in writing

24

1 and sent to Penn Virginia Oil and Gas Corporation at 2550  
2 East Stone Drive, Kingsport 37660, Attention: James Harsha?

3 A. Yes, sir.

4 Q. Should all communications regarding this  
5 order also be sent to that address?

6 A. Yes, sir.

7 Q. And who should be named operator under any  
8 pooling order?

9 A. Penn Virginia Oil and Gas Corporation.

10 TIM SCOTT: Okay. Any questions from the Board?

11 MASON BRENT: Any questions for this witness?

12 (No audible response.)

13 MASON BRENT: Proceed.

14

15 RICHARD WADDELL

16 having been duly sworn, was examined and testified as  
17 follows:

18 DIRECT EXAMINATION

19 QUESTIONS BY MR. SCOTT:

20 Q. Would you state your name, please?

21 A. Yes, Richard Waddell.

22 Q. And you're familiar with the pooling  
23 application before the Board?

24

--

1           A.       Yes, I am.

2           Q.       Are you familiar with the proposed total  
3 depth?

4           A.       Yes.   5,875 feet.

5           Q.       Okay.  Are you requesting the pooling of  
6 conventional gas reserves to include the designated  
7 formations but excluding coal and all those formations which  
8 may be drilled or may be found between the surface to the  
9 total depth drilled?

10          A.       Yes.

11          Q.       What are the estimated reserves of this  
12 unit?

13          A.       550 million cubic feet.

14          Q.       Are you familiar with the well costs for the  
15 proposed well?

16          A.       Yes, I am.

17          Q.       Has an AFE been reviewed, signed and  
18 submitted to the Board?

19          A.       Yes.

20          Q.       Now, we have just now submitted a revised  
21 AFE to the Board which has a different total well cost.  
22 Would you explain to the Board exactly why that was done---?

23          A.       Yes.

24

--

1 Q. ---and what the figures are?

2 A. Yes. The additional is \$10,300. This  
3 relates to the determination that we needed to set additional  
4 conductor pipe on the original AFE cost estimate. We'd only  
5 provided for 30 feet. After further evaluation of this area,  
6 we deemed it necessary to say at least 350 feet for fresh  
7 water protection and to help facilitate drilling operations.  
8 That's the reason for the additional cost.

9 Q. Were you involved in the preparing of the  
10 AFE?

11 A. Yes, I personally prepared it.

12 Q. Okay, and you did sign, is that correct?

13 A. Yes, that's correct.

14 Q. Does the cost represent a reasonable  
15 estimate for the plan of development?

16 A. Yes.

17 Q. Could you state to the Board, in accordance  
18 with the revised Exhibit C, the dry hole cost and completed  
19 costs for McNeil #1?

20 A. Yes. Dry hole costs \$250,750. The  
21 completed well costs will be \$408,550.

22 Q. Does the AFE also cover a reasonable charge  
23 for supervision?

24

--

1           A.       Yes, it does.

2           Q.       And in your opinion, does the approval and  
3 grant of this application, will it be in the best interest of  
4 conservation, prevention of waste of protection of  
5 correlative rights?

6           A.       Yes, it will.

7           TIM SCOTT: Any questions from the Board?

8           MASON BRENT: Any questions of this witness?

9           (No audible response.)

10          TIM SCOTT: We would ask that the application be  
11 approved, Mr. Chairman.

12          BILL HARRIS: Mr. Chairman, I have a question about  
13 the well plat.

14          MASON BRENT: Mr. Harris.

15          BILL HARRIS: The revised one that was handed out,  
16 I'm not sure if I understand the acres listed for the parties  
17 there for each of the tracts.

18          TIM SCOTT: Yes, sir.

19          BILL HARRIS: I'm missing something somewhere. It  
20 looks like these add up to more than the stated acreage. I  
21 mean, I guess when I look at the old plat and compare to the  
22 new, maybe there's a different way of stating things. For  
23 instance, the first tract there that consists of most of  
24



1 that, I think you have 43.53---.

2 TIM SCOTT: Right.

3 BILL HARRIS: ---and then 70 on the new one.

4 RICHARD WADDELL: No, 70 is the gross acreage. The  
5 70 acres is the gross acreage on the---.

6 BILL HARRIS: Oh, okay. Okay, yeah, I see that.

7 RICHARD WADDELL: ---lease itself.

8 BILL HARRIS: I see now. Okay.

9 RICHARD WADDELL: With 43.53---.

10 BILL HARRIS: And you have underneath...okay,  
11 that's what I missed. Okay, we're okay. Thank you.

12 MASON BRENT: Any other questions from the Board?

13 SHARON PIGEON: Was that James Marshall that they  
14 want designated specifically in the---?

15 TIM SCOTT: Harsha. Harsha, H-A-R-S-H-A. I think  
16 I mumbled. I'm sorry.

17 (Laugh.)

18 MASON BRENT: What did you say?

19 (Laughs.)

20 MASON BRENT: Any other questions from the Board or  
21 staff?

22 (No audible response.)

23 MASON BRENT: Do we have a motion?

24

1           KEN MITCHELL: So moved, Mr. Chairman, for  
2 approval.  
3           MASON BRENT: Motion for approval.  
4           BILL HARRIS: Second.  
5           MASON BRENT: Second. Any further discussion?  
6           (No audible response.)  
7           MASON BRENT: All in favor of the motion for  
8 approval, signify by saying yes.  
9           (All members signify by saying yes.)  
10          MASON BRENT: Opposed?  
11          (No audible response.)  
12          MASON BRENT: You have approval.  
13          TIM SCOTT: Thank you very much.  
14          WAYNE MANESS: Thank you, gentlemen.  
15          MASON BRENT: Thank you. Is Mr. Hall back in the  
16 room?  
17          (No audible response.)  
18          MASON BRENT: The next item on our agenda, the  
19 Board will consider a petition from Equitable Production  
20 Company for a well location exception for proposed  
21 conventional well V-502377 in Wise County, Virginia. This is  
22 docket item VGOB-02-11/19-1097. We'd ask all the parties  
23 interested to come before the Board to do so at this time.  
24

1                   JIM KISER: Mr. Chairman and members of the Board,  
2 Jim Kiser on behalf of Equitable Production Company. Our  
3 witness in this matter will be Mr. Don Hall. He's handing  
4 out a revised plat for this location exception at this time.  
5 Then we'll...when he gets back, we'll get him sworn in and  
6 move forward.

7                   MASON BRENT: Let the record show there are no  
8 others.

9                   (Don Hall hands out revised plat.)

10                  (Witness duly sworn.)

11

12                                   DON HALL

13 having been duly sworn, was examined and testified as  
14 follows:

15                                   DIRECT EXAMINATION

16 QUESTIONS BY MR. HALL:

17                   Q.       Mr. Hall, if you'd state your name for the  
18 record, who you're employed by and in what capacity?

19                   A.       My name is Don Hall. I'm employed by  
20 Equitable Production Company as a district landman.

21                   Q.       And you've testified numerous times before  
22 the Virginia Gas and Oil Board in both location exception and  
23 force pooling hearings?

24

--

1           A.       Yes.

2           Q.       And do your responsibilities include the  
3 land involved in the unit for well V-502377 and the  
4 surrounding area?

5           A.       They do.

6           Q.       And are you familiar with the application  
7 that we filed seeking a location exception for well V-502377?

8           A.       Yes.

9           Q.       Have all interested parties been notified as  
10 required by Section 4(B) of the Virginia Gas and Oil Board  
11 Regulations?

12          A.       They have.

13          Q.       Could you indicate to the Board the  
14 ownership of the oil and gas underlying the unit for well  
15 number V-502377?

16          A.       Coastal Coal Company is a 100% owner.

17          Q.       And does Equitable have the right to operate  
18 the reciprocal well, that being V-133742 also known as ANR  
19 75?

20          A.       We do.

21          Q.       And are there any correlative rights issues?

22          A.       No.

23          Q.       Now, Mr. Hall, you did hand out to the Board  
24

1 a revised plat in conjunction with this hearing. Could you  
2 explain first the revision in the plat, which is somewhat  
3 insignificant, it's just a relocation of a surface site, I  
4 guess, and then also explain for the Board, in your own  
5 words, why we are seeking a location exception for this  
6 particular well?

7           A.       Well, first of all, the plat that I gave  
8 you, the small tract in the southern portion of the unit that  
9 was located on the first flat, engineers discovered after  
10 that we...after we had made an application that they had  
11 mislocated that. The new plat I just handed out puts it in  
12 the correct position. It's a...also a Costal tract, but it's  
13 a tract that they acquired through a different chain of title  
14 than the other tract. The reason we're seeking a location  
15 exception is that Costal Coal Company put us at this location  
16 to avoid their mine activity in the area. A legal location  
17 would have fallen into an area where they have active mining  
18 going on. This was...this was really the only place they  
19 could...they could approve the location for this well.

20           Q.       Okay, so this location that we're seeking  
21 here today that we have to get the variance from the  
22 reciprocal well of approximately 116 feet, that was the  
23 location chosen by the coal company to avoid any interference  
24

1 with their mining operations?

2 A. That's correct.

3 Q. And in the event the location exception were  
4 not granted, would you project the estimated loss of reserves  
5 resulting in waste?

6 A. 300 million cubic feet.

7 Q. And what is the total depth under the...of  
8 the well under the plan of development?

9 A. 5989 feet.

10 Q. Will this be sufficient to penetrate and  
11 test the common sources as supplied in the subject formations  
12 as represented in the permit application?

13 A. It will.

14 Q. And are you requesting that this location  
15 exception cover conventional gas reserves to include the  
16 designated formations from the surface to the total depth  
17 drilled?

18 A. We are.

19 Q. In your professional opinion, would the  
20 granting of this application be in the best interest of  
21 preventing waste, protecting correlative rights and  
22 maximizing the recovery of the gas reserves underlying the  
23 unit for V-502377?

24

--

1           A.       They would.

2           JIM KISER:  Nothing further of this witness at this  
3 time, Mr. Chairman.

4           MASON BRENT:  Any questions of this witness?

5           KEN MITCHELL:  Mr. Chairman.

6           MASON BRENT:  Mr. Mitchell.

7           KEN MITCHELL:  I realize that we've apparently  
8 shifted it up from the original plat looking at the five  
9 sided item that looks like a temporary Pentagon.  We've  
10 shifted the entire circle up.

11          DON HALL:  No, no.

12          JIM KISER:  No.

13          DON HALL:  No, we shifted the tract down.

14          JIM KISER:  Nothing is moved other than the tract.

15          DON HALL:  The tract itself was located in the  
16 wrong place.  It was shifted down to the---.

17          KEN MITCHELL:  Okay, okay.  Okay, so the tract was  
18 in the wrong spot.

19          DON HALL:  Right.  The tract was moved.

20          KEN MITCHELL:  I accept that gladly.  In the upper  
21 right hand corner of the drawing, there's a plus symbol.  
22 It's about an inch up...inch down from the corner of the  
23 drawing.

24

1           DON HALL: That's correct.

2           KEN MITCHELL: Can you tell me what the plus symbol  
3 is?

4           DON HALL: That's how you locate a...if you look at  
5 the longitude and latitude on the side of the plat here.

6           KEN MITCHELL: Right.

7           DON HALL: That's...at one time, this was required  
8 by the State. I don't think it's even required anymore. But  
9 we still put it on there.

10          KEN MITCHELL: Uh-huh.

11          DON HALL: It's a way you locate this spot on a  
12 topographic map by longitude and latitude.

13          KEN MITCHELL: Okay, and I'll accept that gladly.  
14 But when I look at the longitude and latitude on both  
15 drawings, they are the same, you know, 8820.30 and 3657.30.

16          DON HALL: Uh-huh.

17          KEN MITCHELL: But when I look at the distances...  
18 when I look at the distances to where the plus is, on the  
19 revised, it's 1545 feet from the corner. Under the existing,  
20 it was 1640.

21          DON HALL: I see that. I don't...I didn't  
22 recognize that there was a difference.

23          KEN MITCHELL: Yeah. And then there's a difference  
24



1 in 1,920 and 2,305.

2           DON HALL: Correct, yes. The distance between the  
3 wells is the same. I don't know how to attribute those  
4 figures being wrong. I don't know which one of these plats  
5 is correct. But I can check that out and we can...we will  
6 correct that. But that's...that's something that we just put  
7 on there for internal purposes anyway anymore because the  
8 State requires state plane coordinates, which is already on  
9 here. I don't...Bob correct if I'm wrong, but I don't think  
10 you all require that plat...that on the plat any more, do  
11 you?

12           BOB WILSON: That's correct. It's no longer  
13 required in the regulation. The operators have continued to  
14 include that on the plat as a convenience to us actually  
15 because we still hand plot this wells on a 1 to 2000 base  
16 maps. The plats themselves are on 1 to 400 inch...or 1 to  
17 400 foot scales...an inch to 400 foot scales. We plot them  
18 on to 1 to 2000 foot scale maps. And that's why this spot is  
19 different than the actual well spot shown on the plat. As I  
20 said, most of the operators have been gracious enough to  
21 continue that until we get our system converted completely to  
22 digital.

23           KEN MITCHELL: And I gladly accept that. But I

24

--

1 think it should...it may cause you internal problems having  
2 four different numbers there.

3 DON HALL: I will...we'll look into that. I  
4 appreciate you pointing it out. I overlooked it myself.

5 KEN MITCHELL: Not a problem.

6 MASON BRENT: Any other questions from the Board?

7 (No audible response.)

8 MASON BRENT: Did you have anything further, Mr.  
9 Kiser?

10 JIM KISER: We'd ask that the application be  
11 approved as submitted with the caveat that we're going to  
12 check the longitude and latitude and state plain coordinates  
13 on the revised plat and should we need to provide your office  
14 with another plat, then we'll supplement it in the very near  
15 future, I guess.

16 BOB WILSON: Mr. Chairman, I might point out on  
17 that that the only importance of that would be in the permit  
18 package as opposed to this. We would appreciate---.

19 JIM KISER: Because the distance between the wells  
20 obviously---.

21 BOB WILSON: Exactly. That will be the same.

22 DON HALL: We'll...I think that permit is in your  
23 hands. We'll get you a corrected...figure out which one is

24

--

1 correct and send you a corrected plat.

2           MASON BRENT: Okay. Do we have a motion for  
3 approval?

4           BILL HARRIS: So moved.

5           MASON BRENT: We have a motion. Do we have a  
6 second?

7           KEN MITCHELL: Second.

8           MASON BRENT: Any further discussion?  
9 (No audible response.)

10          MASON BRENT: All those in favor of approval,  
11 signify by saying yes.

12          (All members signify by saying yes, except Donald  
13 Ratliff.)

14          MASON BRENT: Opposed?

15          DONALD RATLIFF: Mr. Chairman, I abstain as an  
16 employee of Coastal Coal.

17          MASON BRENT: All right. We have three yeas and  
18 one abstention. It's approved. Okay, the next item on our  
19 agenda, the Board will consider a petition from Equitable  
20 Production Company for pooling of a coalbed methane unit PC-  
21 551127, Dickenson County, Virginia. This is docket number  
22 VGOB-02-11/19-1098. We'd ask all parties who are interested  
23 to come before the Board, to do so at this time.

24

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1                   JIM KISER: Mr. Chairman and members of the Board,  
2 Jim Kiser, again, on behalf of Equitable Production Company.  
3 Our witness again in this matter will be Mr. Don Hall. I'll  
4 remind him that he is under oath. This is a force pooling  
5 where the only unleased interest we have is in the gas  
6 estate. It is an unknown interest owner in the gas estate,  
7 Tract 5, the I. B. McReynolds heirs.

8                   MASON BRENT: There are no others here. So you may  
9 proceed.

10

11                                   DON HALL

12                                   DIRECT EXAMINATION

13 QUESTIONS BY MR. KISER:

14                   Q. Mr. Hall, if you'd again state your name for  
15 the record, who you're employed by and in what capacity?

16                   A. Don Hall. I'm employed by Equitable  
17 Production Company as district landman.

18                   Q. And do your responsibilities include the  
19 land involved here and in the surrounding area?

20                   A. They do.

21                   Q. And are you familiar with our application  
22 seeking a pooling order for EPC well number  
23 PC-551127, which was dated October the 18th, 2002?

24

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1           A.       Yes.

2           Q.       And is Equitable seeking to force pool the  
3 drilling rights underlying the unit as depicted at Exhibit A  
4 of the application?

5           A.       We are.

6           Q.       Does Equitable own drilling rights in the  
7 unit involved here?

8           A.       Yes, we do.

9           Q.       And what is the interest of Equitable in the  
10 gas estate within the unit?

11          A.       We have 95.54% leased.

12          Q.       And the interest of Equitable in the coal  
13 estate within the unit?

14          A.       A 100%.

15          Q.       So as we stated before, the only unleased  
16 party set out in Exhibit B that we're force pooling here is  
17 the unleased interest of the I. B. McReynolds heirs?

18          A.       That's correct.

19          Q.       And what did our title work show? What was  
20 the date of the mineral severance deed?

21          A.       The coal was sold by I. B. McReynolds to  
22 (inaudible) in September of 1905. At that point, we've  
23 searched the records and searched all possible documents and  
24

1 McReynolds...I. B. McReynolds basically disappeared from  
2 Dickenson County at that time.

3 Q. So, the severance was of the coal only?

4 A. Yes.

5 Q. The oil and gas stayed back in the  
6 McReynolds and then there was never any further conveyance of  
7 anything out of---?

8 A. Right.

9 Q. ---anybody there? And that represents 4.46%  
10 of the gas estate as being unleased?

11 A. That's correct.

12 Q. And were reasonable and diligent efforts  
13 made and sources checked to attempt to identify and locate  
14 any possible heirs of I. B. McReynolds including primary  
15 sources such as deed records, probate records, assessor's  
16 records, treasurer's records and secondary sources such as  
17 telephone directories, city directories, family and friends?

18 A. Yes.

19 Q. And in your professional opinion, was due  
20 diligence exercised to locate any of the respondents that are  
21 named herein?

22 A. Yes, it was.

23 Q. And are the addresses set out in Exhibit B  
24

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1 to the application the last known addresses for the  
2 respondents?

3 A. Yes.

4 Q. Are you requesting this Board to force pool  
5 all unleased interest listed in Exhibit B?

6 A. Yes.

7 Q. Now, are you familiar with the fair market  
8 value of drilling rights in the unit here and in the  
9 surrounding area?

10 A. Yes.

11 Q. Could you advise the Board as to what those  
12 are?

13 A. A five dollar bonus, five year term and a  
14 one-eighth royalty.

15 Q. Did you gain this familiarity by acquiring  
16 oil and gas leases, coalbed methane leases and other  
17 agreements involving the transfer of drilling rights in the  
18 unit involved here and in the surrounding area?

19 A. Yes.

20 Q. And in your professional opinion, do the  
21 terms you have testified to represent the fair market value  
22 of and the fair and reasonable compensation to be paid for  
23 drilling rights in this unit?

24

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1                   A.       They do.

2                   Q.       Now, in regard to any party who remains  
3   unleased, do you allow...do you recommend that they be  
4   allowed the following three statutory options with regard to  
5   their ownership interest within the unit:  One,  
6   participation; two, a cash bonus of five dollars per net  
7   mineral acre plus a one-eighth of eight-eighths royalty; or  
8   three to be a carried interest?

9                   A.       Yes.

10                  Q.       Do you recommend that the order provide that  
11   the elections by any respondents be in writing and sent to  
12   the applicant at Equitable Production Company, 1710  
13   Pennsylvania Avenue, P. O. Box 2347, Charleston, West  
14   Virginia, 25328, Attention:  Melanie Freeman, Regulatory?

15                  A.       Yes.

16                  Q.       And should this be the address for all  
17   communications with the applicant concerning the force  
18   pooling order?

19                  A.       It should.

20                  Q.       Do you recommend that the order provide that  
21   if no election is properly made by a respondent, then such  
22   respondent shall be deemed to have elected the cash royalty  
23   option in lieu of participation?

24

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1           A.       Yes.

2           Q.       Should unleased respondents be given 30 days  
3 from the date of the recording of the Board order to file  
4 their written elections?

5           A.       Yes.

6           Q.       If an unleased respondent elects to  
7 participate, should they be given 45 days to pay their  
8 proportionate share of well costs?

9           A.       Yes.

10          Q.       Does the applicant expect the party electing  
11 to participate to pay in advance that party's share of  
12 completed well costs?

13          A.       We do.

14          Q.       Should the applicant be allowed a 120 days  
15 following the recordation date of the Board order and  
16 thereafter annually on that date until production is achieved  
17 to pay or tender any cash bonus becoming due under the order?

18          A.       Yes.

19          Q.       Do you recommend that if a respondent elects  
20 to participate but fails to pay their proportionate share of  
21 costs satisfactory to the applicant of the payment of those  
22 costs, then the respondent's election to participate shall be  
23 treated as having been withdrawn and void, and should

24

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1 respondent should be treated as if no initial election had  
2 been filed under the Board order, in other words, deemed to  
3 have leased?

4 A. Yes.

5 Q. Do you recommend that the order provide that  
6 where a respondent elects to participate but defaults in  
7 regard to the payment of well costs, any cash sum becoming  
8 payable to that respondent be paid within 60 days after the  
9 last date on which such respondent could have paid those  
10 costs?

11 A. Yes.

12 Q. In this particular case, the Board does need  
13 to establish an escrow account because we have not only  
14 conflicting claims, but an unknown owner on the gas estate  
15 side, is that correct?

16 A. That's correct.

17 Q. And who should be named operator under any  
18 order?

19 A. Equitable Production Company.

20 Q. Now, Mr. Hall, what is the total depth of  
21 the proposed well under the plan of development?

22 A. It's 2295 feet.

23 Q. And the estimated reserves for the unit?

24

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1           A.       450 million cubic feet.

2           Q.       Are you familiar with the well costs for the  
3 proposed well under the plan of development?

4           A.       Yes.

5           Q.       Has an AFE been reviewed, signed and  
6 submitted to the Board?

7           A.       It has.

8           Q.       Was this AFE prepared by an engineering  
9 department knowledgeable in the preparation of AFEs and  
10 knowledgeable in regard to well costs in this area?

11          A.       It was.

12          Q.       In your opinion, does this AFE represent a  
13 reasonable estimate of the well costs for this well under the  
14 plan of development?

15          A.       Yes.

16          Q.       Could you state for the Board both the dry  
17 hole costs and the completed well costs for this well?

18          A.       The dry hole costs would be \$91,679 and the  
19 completed well costs would be \$206,634.

20          Q.       Do these costs anticipate a multiple  
21 completion?

22          A.       They do.

23          Q.       Does your AFE include a reasonable charge  
24

1 for supervision?

2 A. Yes.

3 Q. In your professional opinion, would the  
4 granting of this application be in the best interest of  
5 conservation, the prevention of waste, and the protection of  
6 correlative rights?

7 A. Yes.

8 JIM KISER: Nothing further of this witness at this  
9 time, Mr. Chairman.

10 MASON BRENT: Any questions from the Board?  
11 (No audible response.)

12 MASON BRENT: This well has not been permitted yet?

13 DON HALL: It's...permit application is...is before  
14 Tom at this point.

15 JIM KISER: Bob.

16 DON HALL: Bob, I'm sorry. I don't think it has  
17 been issued yet.

18 BOB WILSON: I believe it has.

19 DON HALL: It has been issued, okay.

20 BOB WILSON: According to my notes, it was issued  
21 in October.

22 DON HALL: Okay.

23 MASON BRENT: And it's outside the window.

24  
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1           DON HALL: The location exception was---.

2           BOB WILSON: This one was subject to location  
3 exception granted by the Director of Division of Gas and Oil  
4 under the Nora Field Rules. As I remember, this location was  
5 selected by the coal operators to prevent interference of  
6 their operation, if I remember correctly.

7           DON HALL: I think that's correct.

8           MASON BRENT: Any other questions from the Board?  
9 (No audible response.)

10          MASON BRENT: Do you have anything further, Mr.  
11 Kiser?

12          JIM KISER: We'd ask, Mr. Chairman, that the  
13 application be approved as submitted.

14          MASON BRENT: Is there a motion for approval?

15          DONALD RATLIFF: Mr. Chairman, I move that we  
16 approve agenda item number twenty.

17          MASON BRENT: All right. We have a motion for  
18 approval.

19          BILL HARRIS: Second.

20          MASON BRENT: We have a second. Any further  
21 discussion?

22          (No audible response.)

23          MASON BRENT: All in favor of approval, signify by  
24

1 saying yes.

2 (All members signify by saying yes.)

3 MASON BRENT: Opposed?

4 (No audible response.)

5 MASON BRENT: Approved. The next item on our  
6 agenda, the Board will consider a petition from Equitable  
7 Production Company for pooling of a coalbed methane unit VC-  
8 509264, Buchanan County, Virginia. This is docket item VGOB-  
9 02-11/19-1099. We'd ask all parties who interested in coming  
10 before the Board to do so at this time.

11 JIM KISER: Mr. Chairman and members of the Board,  
12 Jim Kiser, again, on behalf of Equitable Production. Don  
13 Hall, again, will be our witness.

14

15 DON HALL

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. KISER:

18 Q. Mr. Hall, you're district landman for  
19 Equitable and your responsibilities include the land involved  
20 here and in the surrounding area?

21 A. They do.

22 Q. And are you familiar with our application  
23 seeking a pooling order for EPC well VC-509264, which was

24

--

1 dated October the 18th, 2002?

2 A. Yes.

3 Q. Is Equitable seeking to force pool the  
4 drilling rights underlying the drilling and spacing unit as  
5 depicted in Exhibit A to the application?

6 A. Yes.

7 Q. Now, does Equitable own drilling rights in  
8 the unit here?

9 A. We do.

10 Q. Now, prior to filing the application, were  
11 efforts made to contact each of the respondents named in  
12 Exhibit B and an attempt made to work out a voluntary  
13 agreement regarding the development of the unit involved?

14 A. Yes.

15 Q. And---?

16 MASON BRENT: Let me just state for the record, if  
17 I may before you go any further, that there are no others  
18 present for this hearing.

19 JIM KISER: Oh, I'm sorry. Both these next two  
20 are the Rogers cousins that we've pooled probably a half a  
21 dozen times anyway.

22 Q. What is the interest of Equitable in the gas  
23 estate within the unit?

24

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1           A.       75%.

2           Q.       That's under lease?

3           A.       It's under lease, yes.

4           Q.       And the interest of Equitable under leasing  
5 the coal estate within the unit?

6           A.       A 100%.

7           Q.       And all the unleased parties are set out in  
8 Exhibit B?

9           A.       They are.

10          Q.       So, 25% of the gas estate remains unleased?

11          A.       That's correct.

12          Q.       And we don't have any unknown parties?

13          A.       No.

14          Q.       And in your professional opinion, was due  
15 diligence exercised to locate each of the respondents named  
16 herein?

17          A.       It was.

18          Q.       And are the addresses set out in Exhibit B  
19 to the application the last known addresses for the  
20 respondents?

21          A.       Yes.

22          Q.       Are you requesting the Board to force pool  
23 all unleased interest as listed in Exhibit B?

24



1 A. Yes.

2 Q. Now, are you familiar with the fair market  
3 value of drilling rights in the unit here and in the  
4 surrounding area?

5 A. Yes.

6 Q. Could you advise the Board as to what those  
7 are?

8 A. A five dollar bonus, a five year term and  
9 one-eighth royalty.

10 Q. In your opinion, do these terms you have  
11 just testified to represent the fair market value of and the  
12 fair and reasonable compensation to be paid for drilling  
13 rights within this unit?

14 A. They do.

15 JIM KISER: Mr. Chairman, at this time, I'd ask  
16 that the testimony regarding the statutory election options  
17 afforded the unleased parties and their different time  
18 periods in which to make those elections and their different  
19 obligations under the statute regarding those elections be  
20 incorporated in accordance with the testimony just taken in  
21 VGOB docket number 02-11/19-1098.

22 MASON BRENT: It will be incorporated.

23 Q. Mr. Hall, who should be named the operator  
24

--

1 under any force pooling order?

2 A. Equitable Production.

3 (Mr. Hall and Mr. Kiser confer.)

4 Q. Does the Board need to, because of the

5 conflicting claimant situation between the gas and the coal

6 estate, does the Board need to establish an escrow account?

7 A. Yes.

8 Q. And what is the total depth of the proposed

9 well under the plan of development?

10 A. 2380 feet.

11 Q. And the estimated reserves for the unit?

12 A. 400 million cubic feet.

13 Q. And you're familiar with the well costs and

14 the AFE that has been reviewed, signed and submitted to the

15 Board as Exhibit C to the application?

16 A. Yes.

17 Q. In your opinion, does it represent a

18 reasonable estimate of the well costs under the plan of

19 development?

20 A. Yes.

21 Q. Could you state for the Board both the dry

22 hole costs and the completed well costs for 509264?

23 A. The dry hole costs is \$96,222, and the

24

1 completed well costs is \$191,532.

2 Q. Do these costs anticipate a multiple  
3 completion?

4 A. They do.

5 Q. Does your AFE include a reasonable charge  
6 for supervision?

7 A. Yes.

8 Q. In your professional opinion, would the  
9 granting of this application be in the best interest of  
10 conservation, the prevention of waste, and the protection of  
11 correlative rights?

12 A. Yes.

13 JIM KISER: Nothing further of this witness at this  
14 time, Mr. Chairman.

15 MASON BRENT: Questions from the Board?

16 BOB WILSON: Mr. Chairman.

17 MASON BRENT: Mr. Wilson.

18 BOB WILSON: Is there not a royalty split agreement  
19 between the---?

20 JIM KISER: Oh, there sure is, isn't there?

21 BOB WILSON: ---Rogers I and II that you need to  
22 address?

23 DON HALL: Yeah.

24

--

1           JIM KISER: Yeah.

2           DON HALL: That's correct. I think the parties...  
3 the 75% owners being the Bradshaw Trust II, I believe, have  
4 an agreement with the parties that we force pooled under a  
5 royalty split. So, we probably don't need an escrow.

6           BOB WILSON: The agreement that I was aware of was  
7 between the Trust #1 and the Trust #2. The Trust #1 as gas  
8 operator...or gas owner and Trust #2 was a coal owner.

9           JIM KISER: Coal owner.

10          BOB WILSON: I believe that we've had a standard  
11 agreement between those two. I'm not...I don't know about  
12 the unleased parties. I don't know anything about them.

13          JIM KISER: I don't think the cousins are involved.

14          DON HALL: Right. Yeah, you're right.

15          BOB WILSON: But if that prior agreement is in  
16 effect, it would need to be reflected in the order to show  
17 that the Trust I and Trust II are subject to that agreement  
18 and direct payment. I don't...again, the others, you'll have  
19 to address that. I assume they're still in conflict, the  
20 cousins.

21          JIM KISER: I think that's right.

22          DON HALL: Yeah,

23          JIM KISER: And, Sharon, if you need, call my  
24

--

1 office and I'll get you a prior Rogers order, the language  
2 that addresses that royalty split agreement. You've got a  
3 copy of it on file there somewhere. Yeah, but it's between I  
4 who owns 75% of the gas and II who owns a 100% of the coal.

5 DON HALL: Right. Yeah. That's correct.

6 MASON BRENT: Any other questions?

7 (No audible response.)

8 MASON BRENT: Would you state again, please, the  
9 gas estate interest that's leased and what's unleased.

10 JIM KISER: Well, in fact, we probably ought to go  
11 ahead and explain that kind of again.

12 DON HALL: Actually...actually the gas estate  
13 itself is a 100% leased. But we have a coalbed methane lease  
14 on 75% of it, that being the Trust. The 25% that we're force  
15 pooling, we have the gas leased, but we don't have a CBM  
16 amendment to that portion of the lease. So, the purpose of  
17 force pooling it is to include the CBM interest.

18 JIM KISER: It's a very conservative approach, in  
19 my opinion, but one that covers all the basis.

20 MASON BRENT: Right.

21 JIM KISER: We've never been able to get the  
22 cousins to ratify the...or amend the---.

23 DON HALL: For the CBM.

24

--

1           JIM KISER: ---CBM lease. They're scattered all  
2 over the place, you can say.

3           MASON BRENT: Other questions from the Board?  
4           (No audible response.)

5           MASON BRENT: Do you have anything further, Mr.  
6 Kiser?

7           JIM KISER: We'd ask that the application be  
8 approved as submitted.

9           MASON BRENT: Do we have a motion for approval?

10          DONALD RATLIFF: Mr. Chairman, I move that item  
11 twenty-one concerning the coalbed methane unit VC-509264 be  
12 approved as presented.

13          MASON BRENT: Okay, we have a motion for approval.  
14 Do we have a second?

15          BILL HARRIS: Second.

16          MASON BRENT: We have a second. Any further  
17 discussion?

18          (No audible response.)

19          MASON BRENT: All in favor of approval, signify by  
20 saying yes.

21          (All members signify by saying yes.)

22          MASON BRENT: Opposed, say no.

23          (No audible response.)

24

1           MASON BRENT: You have approval. The next item on  
2 our agenda, the Board will consider a petition from Equitable  
3 Production Company for pooling of a coalbed methane unit VC-  
4 509270, Buchanan County, Virginia. This is docket item VGOB-  
5 09-11/19-1100. We'd ask all parties who are interested in  
6 coming before the Board to do so at this time.

7           JIM KISER: Mr. Chairman and members of the Board,  
8 Jim Kiser on behalf of Equitable Production Company. Our  
9 witness, again, is Mr. Hall. This is the exact same mirror  
10 image of the well that we just pooled, the exact same  
11 percentages unleased, the exact same unleased parties.

12           MASON BRENT: Let me just state before you get  
13 started for the record that there are no other parties.

14           JIM KISER: Yeah. The exact same royalty split  
15 agreement, the exact same need for escrow because of the  
16 cousins. I would ask that we incorporate all the testimony  
17 from VGOB docket number 02-11/19-1099 up to the point of some  
18 of the operational issues, which would be depth, reserves and  
19 cost, which is a little bit different.

20           MASON BRENT: It will be incorporated.

21

22                           DON HALL

23                           DIRECT EXAMINATION

24

--

1 QUESTIONS BY MR. HALL:

2 Q. Mr. Hall, could you state the depth for this  
3 particular well for 509270?

4 A. It's 1900 feet.

5 Q. And the estimated reserves for this unit?

6 A. 400 million cubic feet.

7 Q. And you're familiar with the cost for this  
8 well and under the plan of development in AFE that was...that  
9 has been reviewed, signed and submitted to the Board as  
10 Exhibit C to the application?

11 A. Yes.

12 Q. In your opinion, does the AFE that we  
13 submitted represent a reasonable estimate of the costs for  
14 the proposed well under the plan of development?

15 A. It does.

16 Q. If you'd state for the Board, both the dry  
17 hole costs and completed well costs for 509270?

18 A. The dry hole costs is \$94,747 and the  
19 completed well costs would be \$184,651.

20 Q. And do these costs anticipate a multiple  
21 completion?

22 A. They do.

23 Q. And does your AFE include a reasonable  
24

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1 charge for supervision?

2 A. Yes.

3 Q. In your professional opinion, would the  
4 granting of this application be in the best interest of  
5 conservation, the prevention of waste and the protection of  
6 correlative rights?

7 A. Yes.

8 JIM KISER: Nothing further of this witness at this  
9 time, Mr. Chairman.

10 MASON BRENT: Any questions for this witness from  
11 the Board?

12 (No audible response.)

13 MASON BRENT: Okay, no questions---.

14 JIM KISER: We'd ask that the application be  
15 approved as submitted, please.

16 MASON BRENT: Do we have a motion for approval.

17 BILL HARRIS: Mr. Chairman, I move that we approve  
18 item twenty-two on the docket, VGOB-02-11/19-1100.

19 MASON BRENT: I have a motion. Do we have a  
20 second?

21 DONALD RATLIFF: Second.

22 MASON BRENT: We have a second. Any further  
23 discussion?

24

--

1 (No audible response.)

2 MASON BRENT: All those in favor of approval of the  
3 motion, please signify by saying yes.

4 (All members signify by saying yes.)

5 MASON BRENT: Opposed, say no.

6 (No audible response.)

7 MASON BRENT: Okay, you have approval. The next  
8 item on our agenda, the Board will consider a petition from  
9 Equitable Production Company for pooling of a conventional  
10 gas unit V-505369 in Wise County, Virginia. This is docket  
11 item VGOB-02-11/19-1101. And---

12 JIM KISER: Mr. Chairman...I'm sorry.

13 MASON BRENT: ---all parties that would like to  
14 come before the Board in this matter to do so at this time.

15 JIM KISER: Mr. Chairman, again, Jim Kiser of  
16 Equitable Production Company. We'd like to ask at this time  
17 that this hear...this particular application be continued.  
18 Our due diligence, we've discovered some additional owners  
19 and maybe some additional tracts within the unit. So, we're  
20 probably going to have to...we're obviously going to have to  
21 refile or modify this application and we're going to have  
22 some notice issues. Mr. Wilson, can you ask that it be  
23 carried forward two months? Obviously, we're not going to be  
24

--

1 ready for this one in December. Can we ask that it be  
2 carried to January?

3 BOB WILSON: Certainly, as far as we're concerned.

4 JIM KISER: So, we would ask that this particular  
5 item be carried forward until the January docket.

6 MASON BRENT: Okay, any objection from the Board?

7 (No audible response.)

8 MASON BRENT: Okay, it will be carried forward to  
9 January. And one of the last items before the Board, we have  
10 to address the minutes of our last meeting. I will put them  
11 before you for approval. I assume you've all had copies sent  
12 to you. I understand there was one correction.

13 BOB WILSON: Mr. Chairman, again, as indicated in  
14 the email that I sent everybody, item number six on last  
15 month's hearing was the one considering unit EE-35. It was  
16 docket number VGOB-02-08/20-1056. I had mistakenly  
17 understood that was...the pooling was approved in conjunction  
18 with some others. It actually was carried forward until this  
19 month to cure that notice problem. We do need to correct  
20 that particular part, the one that I know of.

21 MASON BRENT: All right. Does anybody else have  
22 any comments or corrections for the minutes from the last  
23 meeting?

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1 (No audible response.)

2 MASON BRENT: Okay, then I would ask for a motion  
3 that we approve the minutes of the last meeting to  
4 incorporate---.

5 DONALD RATLIFF: Mr. Chairman, I move that we  
6 approve the minutes of the last meeting and incorporate the  
7 changes mentioned by Mr. Wilson.

8 MASON BRENT: Okay, I think we have a motion. Do  
9 we have a second?

10 BILL HARRIS: Second.

11 MASON BRENT: All right. Any further discussion?

12 (No audible response.)

13 MASON BRENT: All in favor of approval of the  
14 minutes, signify by saying yes.

15 (All members signify by saying yes.)

16 MASON BRENT: Opposed, say no.

17 (No audible response.)

18 MASON BRENT: Okay, thank you. The minutes are  
19 approved. That concludes our agenda for the day. So we are  
20 off the record.

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1 STATE OF VIRGINIA,

2 COUNTY OF BUCHANAN, to-wit:

3 I, SONYA MICHELLE BROWN, Court Reporter and Notary  
4 Public for the State of Virginia, do hereby certify that the  
5 foregoing hearing was recorded by me on a tape recording  
6 machine and later transcribed by me personally.

7 Given under my hand and seal on this the 6th day of  
8 December, 2002.

9 NOTARY PUBLIC

10 My commission expires: August 31, 2005.  
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